

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING
DECEMBER 12, 2019
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) Review of Board Minutes from November 7, 2019 Panel Meeting
 - b) Approval of Board Minutes from November 14, 2019 Regular Meeting
4. OPEN FORUM
5. APPEALS*
 - a) L18-0161, Jackman v. Tenants
 - b) E18-0012 to E18-0017, Homes East Bay 4 LLC v. Tenants
6. ACTION ITEMS
 - a) Formation of additional ad hoc committees, membership and review of issues identified in May 9, 2019, Board meeting (see attached list on page 3)
7. INFORMATION AND ANNOUNCEMENTS
 - a) Rent Adjustment Program Updates (C. Franklin Minor)
 - b) Legislative Updates (Office of the City Attorney)
8. COMMITTEE REPORTS AND SCHEDULING
 - a) Report from Ad Hoc Committee – Deferred Maintenance v. Capital Improvement of Dry Rot
9. ADJOURNMENT

* Staff recommendation memos for the appeals will be available at the Rent Program and the Clerk's office at least 72 hours prior to the meeting pursuant to O.M.C. 2.20.080.C and 2.20.090.

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@oaklandca.gov 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, Cantones, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a sshannon@oaklandca.gov o llame al (510) 238-3715 o 711 por lo menos cinco días hábiles antes de la reunión. 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@oaklandca.gov 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.

Formation of additional ad hoc committees, membership and review of issues identified in May 9, 2019, Board meeting:

- Information about the Building Code and intersection with the Regulations; (e.g. window bars-there is a code that applies to this.)
- Should dry rot be treated differently from other deferred maintenance items?
- Clarification of deferred maintenance v. items that benefit tenants?
- Ambiguous terms in the regulations and in the Ordinance;
- How is the value of the Decreased Housing Services determined?
- What constitutes a burden of proof regarding expenses for capital improvements?
- Effects of AB 1482 on Rent Adjustment Program Ordinance
- Denial of subtenant/roommate constitutes a decreased housing service?

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
 PANEL MEETING
 NOVEMBER 7, 2019
 7:00 P.M.
 CITY HALL, HEARING ROOM #1
 ONE FRANK H. OGAWA PLAZA
 OAKLAND, CA**

MINUTES

1. CALL TO ORDER

The HRRRB meeting was called to order at 7:12pm by Chair, E. Lai.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
C. TODD	Tenant Alt	X		
E. LAI	Homeowner Alt.	X		
K. SIMS	Landlord Alt.	X		

Staff Present

Ubaldo Fernandez
 Oliver Luby
 Keith Mason
 Kelly Rush

Deputy City Attorney, Office of the City Attorney
 Deputy City Attorney, Office of the City Attorney
 Program Analyst II, Rent Adjustment Program
 Program Analyst I, Rent Adjustment Program

3. OPEN FORUM

4. APPEALS*

a. T18-0098, Arguete v. Ogbeide

Appearances:	Festus Ogbeide	Owner Appellant
	Eve Arguete	Tenant Appellee

The owner appealed the Hearing Decision which granted the tenant a decrease in rent from \$2,600.00 to \$1,800.00 due to tenant's claims of decreased housing services for loss of use of the basement space after the owner converted the basement into a second unit.

The owner appeared and contended that the original rent was \$2,600.00. The owner stated that the tenant (Eve Arguete) had trouble paying the entire rent after her housemate vacated the unit. Due to her hardship, the owner contended that he made an oral agreement with the Ms. Arguete (tenant) to decrease her

rent to \$1,800.00 temporarily so that he could remodel the basement to rent it separately. The owner states that within their agreement, the rent would be increased to market value once the work was completed. The appellant contended that he did not appear at the underlying hearing because he did not believe he was subject to the Rent Adjustment Program because it is a single-family home.

The tenant appeared and contended that as of November 2017, the unit is no longer exempt as a single-family home since he rented the basement unit to another tenant. The tenant stated that she has been paying \$1,800.00 for two years and requests that the Board uphold the Hearing Decision.

After arguments made by both parties, Board questions to the parties and Board discussion, K. Sims moved to remand the Hearing Decision with instruction to review the amount of decreased housing services based on the square footage of the basement lost by the tenant. There was no second to this motion.

The motion failed.

C. Todd motioned to uphold the Hearing Decision based on substantial evidence. E. Lai seconded the motion.

The Board voted as follows:

Aye: C. Todd, E. Lai

Nay: K. Sims

Abstain:

The motion passed.

5. ADJOURNMENT

The HRRRB meeting was adjourned at 8:06pm by Chair, E. Lai.

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING
NOVEMBER 14, 2019
7:00 P.M.
CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

MINUTES

1. CALL TO ORDER

The HRRRB meeting was called to order at 7:07 p.m. by Chair, R. Stone.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
T. HALL	Tenant	X		
R. AUGUSTE	Tenant	X		
H. FLANERY	Tenant Alt.			X
C. TODD	Tenant Alt.			X
R. STONE	Homeowner	X		
J. WARNER	Homeowner			X
A. GRAHAM	Homeowner	X		
E. LAI	Homeowner Alt.			X
J. MA POWERS	Homeowner Alt.	X		
K. FRIEDMAN	Landlord	X		
T. WILLIAMS	Landlord	X		
B. SCOTT	Landlord Alt.			X
K. SIMS	Landlord Alt.			X

Staff Present

Kent Qian	Deputy City Attorney
Oliver Luby	Deputy City Attorney
Chaneé Franklin Minor	Program Manager, Rent Adjustment Program
Kelly Rush	Program Analyst I, Rent Adjustment Program

3. CONSENT ITEMS

- a) Review of Board Minutes from October 17, 2019
Panel Meeting
- b) Approval of Board Minutes from October 24, 2019
Regular Meeting

One correction provided for bate stamp page 12, second motion should read "T. Williams seconded" instead of "R. Stone seconded."

A. Graham motions to approve Board minutes from October 24th, 2019 with the one correction above. T. Hall seconded motion.

The Board voted as follows:

Aye: R. Auguste, T. Hall, J. Powers, A. Graham, R. Stone, T. Williams

Nay:

Abstain: K. Friedman

The motion passed.

4. OPEN FORUM

Speaker: Edward Lai

- Requests that appeal recommendations should be written by City Attorney's Office
- States that the Rent Board needs to be independent and answers to City Council

Speaker: James Vann

- Comments and review should be directed only at items that are on appeal
- Rent Board can decide to hold an evidentiary hearing if needed

5. APPEALS

a) T19-0011, Aguirre v. Diamond Properties

Appearances:	Luis Aguirre	Tenant Appellant
	Jennifer Maniar	Owner Appellee Representative

The tenant appealed the Hearing Decision that denied the tenant decreased housing services for loss of the patio space and allowed the owner response to be considered even though it was submitted after the deadline. The tenant appellant appeared and contended that the repairs were supposed to be completed in a few months. The tenant states that he used the patio on a daily basis with his children and that loss of service required him to take his children elsewhere to play outside. The appellant also reiterates that the owner response was not made timely and that there was no good cause for the late submission. The tenant appellant does acknowledge that the work is nice but that does not change the loss that was experienced during this time.

The owner representative appeared and contended that the work

was more extensive than originally planned due to required work on the roof membrane. The representative indicated that the work was completed in approximately 10 months and the work would benefit the current and future tenants in the building. She states that there was no capital improvement passthrough to tenants for this work. As for the late filing, the owner representative contends that she was relatively new to the real estate field at the time of filing and thought that the response was due in 35 business days rather than calendar days.

After arguments made by both parties, Board questions to the parties and Board discussion, T. Hall motions to remand to the Hearing Officer to discount the late document and not consider the owner's untimely response. R. Auguste seconds the motion.

The Board voted as follows:

Aye: R. Auguste, T. Hall, J. Powers, A. Graham

Nay: R. Stone, T. Williams, K. Friedman

Abstain:

The motion carried.

A. Graham motions to set aside the prior vote. T. Williams seconded the motion.

The Board voted as follows:

Aye: R. Auguste, T. Hall, J. Powers, A. Graham, R. Stone, T. Williams, K. Friedman

Nay:

Abstain:

The motion passed by consensus.

T. Hall motions to remand to the Hearing Officer to re-determine the Hearing Decision without using untimely response and use discretion if new hearing is needed. J. Powers seconded the motion.

The Board voted as follows:

Aye: R. Auguste, T. Hall, J. Powers, A. Graham, R. Stone

Nay: T. Williams, K. Friedman

Abstain:

The motion carried.

A. Graham motioned to uphold the Hearing Officer's Decision that there were no decreased housing services awarded during the repair of the deck. K. Friedman provided a friendly amendment that the loss in service was only temporary is not an unreasonable delay. A. Graham accepts friendly amended. K. Friedman seconded the motion.

The Board voted as follows:

Aye: T. Hall, J. Powers, A. Graham, R. Stone, T. Williams, K. Friedman

Nay: R. Auguste

Abstain:

The motion carried.

b) T19-0097, Torres de Janon v. Melter

This case was dismissed by appealing party prior to Rent Board meeting.

6. ACTION ITEMS

- a) Formation of additional ad hoc committees, membership and review of issues identified in May 9, 2019, Board meeting (see attached list on page 3)

Speaker: James Vann

- Request item of seniors on fixed incomes be added to the list

No interest in creation of further committees currently. Board Chair requests that this item continue to remain on the agenda for future meetings.

7. INFORMATION AND ANNOUNCEMENTS

- a) Rent Adjustment Program Updates (C. Franklin Minor)

C. Franklin Minor provided that 7a and 7b will be added to the agenda for the first meeting of each month which she will attend.

C. Franklin Minor also discussed

- outreach by the Rent Adjustment Program has continued
 - EBRHA expo – presentation to about 50

people about overview and shifts in the program

- Outreach to tenants in the Fruitvale through partnership with ACEE
- Backlog of petitions to enter is now gone. Petitions will now be entered as they come in. She would like to thank staff for their hard work to get the backlog complete.
- Close to being caught up with appeal cases. Backlog of appeal cases should be done in January.
- Efficiency Ordinance will be presented to Council in January.
- Info sheet on AB1482 is being made for the Rent Adjustment Program
- Rent Adjustment Program will create a postcard mailer that will include Oakland law and State law information.

K. Friedman suggested that it is also important to try and do some outreach to Spanish speaking owners as well.

b) Legislative Updates (Office of the City Attorney)

K. Qian provided that the Efficiency Ordinance should be presented to City Council in January. More updates to come.

8. COMMITTEE REPORTS AND SCHEDULING

a) Report from Ad Hoc Committee – Deferred Maintenance v. Capital Improvement of Dry Rot

T. Williams stated that the Committee still has not met yet and there is nothing to report. The members will attempt to meet this week in person or by Skype.

b) Appeal Recommendation Discussion (C. Franklin Minor)

C. Franklin Minor stated that there were three options included in the packet for Board members to review and decide which format would be best. (Bate stamps #4 through #6) She also provides that the Board has complete power to ignore, accept parts or accept altogether. The recommendation is simply a tool to assist with the analysis of the cases. Mrs. Minor compares the recommendations to other jurisdictions such as Santa Monica, Berkeley, and San Francisco that were used to determine which is best.

- SF - Administrative Law Judge who wrote initial Hearing Decision provides the recommendation
- Berkeley and Santa Monica – a staff attorney write the recommendation

General consensus of Board members favored option #3 (on Bate Stamp #6).

- K. Friedman expressed appreciation for applicable law and past Rent Board decisions that are included in option #3.
- R. Stone agreed with K. Friedman, however, he has two concerns
 - Scope of memo sometimes goes beyond the Hearing Decisions
 - Due process concerns since the memo is only available 3 days prior to the hearing. This may not provide adequate time for a party to prep for a response to the memorandum.
- A. Graham expressed favor for option #3.
- J. Powers also expressed favor for option #3 and states that issue identification is most useful to her but would like to remember that the Board is not bound by past decisions. (K. Friedman provided that some are precedential cases)

K. Friedman suggests that if needed, appeal scheduling should show down to allow for staff to write appeal recommendations.

9. ADJOURNMENT

The HRRRB meeting was adjourned at 9:57pm by Board Chair, R. Stone.

CHRONOLOGICAL CASE REPORT

Case No.: L18-0161
Case Name: Jackman v. Tenants
Property Address: 2437 MacArthur Blvd., Oakland, CA
Parties: Rosa Isela Jackman (Owner)
William E. Jackman (Owner)
No Appearance by Tenants

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Landlord Petition filed	September 4, 2018
No Tenants Responses filed	-----
Hearing Decision issued	June 26, 2019
Owner Appeal filed	July 15, 2019

48-0161 MS/LM

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 ADJUSTMENT PROGRAM 2018 AUG 35 PM 12:04 RECEIVED SEPT 4 SEP 04 2018 LANDLORD PETITION FOR CERTIFICATE OF EXEMPTION (OMC §8.22.030.B) RENT ADJUSTMENT PROGRAM OAKLAND
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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 E. Jackman Rosa I. Jackman		Complete Address (with zip code) 2816 School St. Oakland, CA 94602	Telephone Day: _____
Your Representative's Name None. Self-represented.		Complete Address (with zip code) N/A	Telephone Day: _____
Property Address 2437 & 2439 MacArthur Blvd. Oakland, CA 94602		Total number of units in bldg or parcel. 2	
Type of units (circle one)	Single Family Residence (SFR)	Condominium	Apartment 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. 29-906-30			

Section 2. Tenants. You must attach a list of the names and addresses, with unit numbers, of all tenants residing in the unit/building you are claiming is exempt.

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

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

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):

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

Section 4. Verification Each petitioner must sign this section.

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

William E. Joekman
Owner's Signature

Sep 3, 2018
Date

Rosa L. Joekman
Owner's Signature

Sept-3-2018
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.

LETTER IN SUPPORT OF LANDLORD PETITION FOR CERTIFICATE OF EXEMPTION

On the Grounds of Substantial Rehabilitation

September 3, 2018

Section 2. Tenants

2437 MacArthur Boulevard, Oakland, CA 94602

- Kirsten R. Jusewicz
- Laura Perez

2439 MacArthur Boulevard, Oakland, CA 94602

- Karl Fixen-Lavdiotis
- Tessa Fixen-Lavdiotis

LETTER IN SUPPORT OF LANDLORD PETITION FOR CERTIFICATE OF EXEMPTION

On the Grounds of Substantial Rehabilitation

September 3, 2018

We, William E. Jackman and Rosa Isela Jackman, purchased 2433, 2437 & 2439 MacArthur Boulevard, Oakland, CA 94602 (three blocks from our home) on August 8, 2017 from Roger and Dianna Gee for \$650,000. The Gees purchased the property in 1975 and operated the Jade Soccer Center/Oakland Billiard Supply at 2433 MacArthur Boulevard for 42 years before selling it to us. During these 42 years, the Gees used the duplex behind the store at 2437-39 MacArthur Boulevard for storage of inventory and equipment; they never used for it for residential purposes.

2433 MacArthur Boulevard is hereafter referred to as the commercial space.

2437-39 MacArthur Boulevard is hereafter referred to as the duplex.

2433-37-39 MacArthur Boulevard is hereafter referred to as the complex.

During these 42 years, the Gees kept their soccer/billiard store in good condition but allowed the duplex to deteriorate. Based on recommendations from a property inspection we had done on July 11, 2017 by Bay Area Home Inspections (summary enclosed), we completely renovated the duplex which cost **\$139,075** (please see enclosures). This letter is in support of our LANDLORD PETITION FOR CERTIFICATE OF EXEMPTION (OMC 8.22.030.B) on the grounds of **Substantial Rehabilitation**.

We obtained Property Characteristics of 2433, 2437 & 2439 MacArthur Boulevard from the Office of Assessor, County of Alameda on February 15, 2019. The building area is 2,240 sq. ft. Of this, the residential area is 1,125 sq. ft. and the commercial area is 1,115 sq. ft. Please see enclosure. We obtained the City of Oakland Construction Valuation

for Building Permits Effective January 1, 2017 from the Building and Planning Department (250 Frank Ogawa Plaza - 2nd Floor) on June 15, 2018. The cost per square foot of new construction for Duplex/Townhouse on Level Ground is \$196.12. Please see enclosure.

Cost of new construction of the duplex:

$$(1,125 \text{ sq. ft.}) (\$196.12/\text{sq. ft.}) = \$220,635$$

50 per cent of this amount:

$$(\$220,635)(0.5) = \mathbf{\$110,318}$$

$$\mathbf{\$139,075 > \$110,318}$$

To summarize: The cost of new construction of the duplex would be \$220,635, fifty percent of this cost is \$110,318, and our renovation costs of \$139,075 are greater than \$110,318.

Some history of the property: It was built in 1941 and purchased in 1942. The duplex had no renovation from 1941 until we purchased it in 2017. It was used for residential before the Gees bought it in 1975, and the City of Oakland Planning and Building Department confirmed that it has a Certificate of Occupancy. The duplex was used for storage, not residential rental, during the 42 years the Gees owned it.

Our purchase of 2433-37-39 MacArthur Boulevard is a retirement investment. Rosa is a licensed cosmetologist and has operated Rosa's Hair Salon at 3120 Fruitvale Avenue (one block from our home) for over a decade. However, she is 61 years of age and has arthritis in her back and hands. In spite of this, Rosa continues to perform the demanding work of a hair stylist, but has doubts about how much longer she can do this. William who is 74 years of age continues to work full-time for Kaiser Permanente

but also has doubts about how much longer he can remain competitive with his younger co-workers. Moreover, he recently underwent a series of oncology radiation treatments for cancer of the larynx during which he continued to work full time.

Renovation Strategy:

- **First:** Completely renovate the duplex which had been allowed to deteriorate during the 42 years it was used for storage for the Jade Soccer Center/Oakland Billiard Supply. We completed most of the essential renovation of the duplex by December 31, 2017.

At this point, we encountered a long delay as we waited for PG&E. There is a standard 4-5 month wait to get a design from PG&E and to schedule construction services to connect a new electrical service to PG&E's electrical grid. These normal wait times were lengthened because of heavy demands on PG&E staff due to fires in Northern California.

During May-July 2018, however, we did further renovation of the duplex, including building an outdoor storage shed and a laundry room with separate facilities for each residential unit (please see enclosure).

- **Second:** Make needed repairs/renovations to the commercial space which had been maintained in good operating condition during its 42 years as the Jade Soccer Center/Oakland Billiard Supply. The main repairs we made to the store were to replace sheet rock and add insulation. Also, we upgraded the wiring.

COSTS FOR MATERIALS

How purchased: CITI CARD

Summary: We used our CITI CARD to purchase \$11,212 in materials for the duplex. Please see enclosures.

The total amount we put on this card was \$11,446.54. \$11,211.84 of this amount was for materials for the duplex. \$234.70 was for part of a City of Oakland permit and is already included in our total for City of Oakland permits.

We obtained this CITI CARD on September 5, 2017 with a credit limit of \$8,000 and no interest for 21 months. During the first statement period, we bought \$7,182 of materials for the duplex at Home Depot. During the second statement period, we bought \$819 of materials for the duplex at Home Depot. By the third statement period, we were close to the Credit Limit so we did not use the card this period.

As we made payments on the card, our available credit increased commensurately. Using this available credit, we purchased \$300 of materials from Home Depot (on December 18, 2017) during the fourth statement period. From then on, we used the CITI CARD only sparingly until our credit limit was increased from \$8,000 to \$10,500 on May 1, 2018. We then put an additional \$3,000 on the card on June 1, 2018 to buy two washers and two dryers for the 2 units of the duplex.

How purchased: CHASE CARD

Summary: We used our CHASE CARD to purchase \$23,169 in materials for the duplex. Please see enclosures.

\$23,169 is ninety percent of the total charges of \$25,743 we put on this card. Our main contractor who accompanied us to Home Depot and other stores to purchase materials

confirmed that more than 90 percent of the purchases we made with this CHASE card were for the duplex; less than 10 percent were for the commercial space.

We obtained the CHASE CARD on September 5, 2017 with a credit limit of \$25,000 and no interest for 15 months. During the first and second statement periods, we put \$10,176 and \$14,792, respectively, on the CHASE CARD. By the fifth statement period, the card was near the maximum credit limit so we did not make any purchases this period. As we made payments for the card, our available credit increased commensurately. Using this available credit, we made small purchases of materials in later statement periods.

How Purchased: WELLS FARGO VISA CARD (personal)

Summary: Because our CITI and CHASE cards were near their credit limits, we used our personal WELLS FARGO VISA card to purchase two refrigerators for the two units of the duplex. This charge was \$1,958. Please see enclosures.

Materials Purchased by Main Contractor for Duplex

In addition to purchases of materials we made with our credit cards, our main contractor purchased \$19,103 in materials for the duplex. These materials are shown on the enclosed contractor invoices. \$19,103 is ninety percent of the total of \$21,225 in materials this contractor bought for renovation of the complex. He confirmed that more than 90 percent of the materials he purchased were for the duplex; less than 10 percent were for the commercial space.

Materials Purchased by Electrical Contractor for Duplex

Our electrical contractor purchased materials which cost \$1,295 to replace the electrical service for the complex with a new up-to-date electrical service. We have allocated 60 percent of this cost, \$777, to the duplex.

Rationale for 60 Percent/40 Percent Allocation of Costs

We are receiving rents of \$1,850 and \$1,800, respectively, for the units of the duplex and \$2,400 for the commercial space. So, 60 percent of total rents will come from the duplex (\$3,595/\$5,995) and 40 percent from the commercial space: thus, the 60 percent/40 percent allocation of costs.

Total Materials Purchased for Renovation of Duplex: \$56,453

COSTS FOR LABOR SERVICES

Labor Services by Main Contractor for Duplex

We paid \$65,979 for labor services provided by our main contractor for renovation of the duplex; please see enclosed invoices. This is ninety percent of the total of \$73,310 in labor services he provided for renovation of the complex. He confirmed that more than 90 percent of his labor services were for the duplex; less than 10 percent were for the commercial space.

Labor Services by Electrical Contractor for Duplex

We paid \$2,700 for labor services provided by our electrical contractor for renovation of the duplex; please see enclosed invoice. This is 60 percent of the total of \$4,500 in labor services the contractor provided for renovation of the complex. Please see rationale for this allocation of costs above.

Iron Work (security doors, gates, bannisters, etc.) for Duplex

We paid \$7,350 for professional services provided by Sanchez Iron Work for renovation of the duplex; please see enclosed invoices.

Sewer Lateral Replacement for Duplex

We paid \$1,059 for sewer lateral replacement to meet EBMUD requirements. This is 60 percent of the total of \$1,765 for this work. Please see rationale for this allocation of costs above. Receipts enclosed.

City of Oakland Permits for Duplex

We paid \$2,443 for City of Oakland permits to renovate the duplex. This is out of a total of \$2,995 we paid for permits. All permits were exclusively for the duplex except permit B1705785 which was for insulation and sheet rock in the commercial space and except the electrical permit dated September 1, 2017 which was shared between the commercial space and outside lighting for the duplex; one-third of the cost of this permit (\$76.50 out of \$229.50) was allocated to the duplex. Please see enclosed list of permits.

Construction Management for Duplex

We paid \$2,260 to James C. Scott, an experienced construction manager, to guide us through the City of Oakland requirements for obtaining the array of permits needed to completely renovate the duplex after 42 years of non-residential use. Please see enclosed list of payments.

PG&E Design/Construction Costs

We paid \$1,775 to PG&E (\$2,000 minus a refund of \$225) for a design and construction costs to connect our new electrical service to PG&E's electrical grid. We allocated \$1,065 of this cost to the duplex. This is 60 percent of the total of \$1,775 for this work. Please see rationale for this allocation of costs above. Receipts enclosed.

William E. Jackman

William E. Jackman
September 3, 2018

Rosa Isela Jackman

Rosa Isela Jackman
September 3, 2018

Newly Renovated Duplex at 2437 & 2439 MacArthur Blvd, Oakland 94602
Two One-Bedroom Apartments with Full Living Rooms
(Updated July 12, 2018)

Features include:

Fully upgraded new electrical, plumbing and heating systems.

Newly installed insulation and sheet rock.

Refurbished exterior with all new double-pane sliding windows and new screens.

Remodeled kitchens with new sinks, cabinets, stoves, refrigerators, and floors.

Remodeled bathrooms with new wash basins, cabinets, and new tile on shower walls and floors.

Newly-built outdoor laundry room to house separate new washer and dryer for each unit.

Newly-built spacious outdoor storage shed with separate secure compartments for each unit.

Newly refurbished and refinished hardwood floors.

All new railings/bannisters for entrance stairs to the duplex and for front and back entrances to each apartment.

New brick walkways and patio area with newly built large, sturdy picnic table.

The street entrance to the apartments has a new 8-foot metal security entrance gate which houses a new 6-foot metal security door.

Each apartment has two new outside metal security screen doors, at front and back entrances.

New 7-foot wooden fence.

New protective lattice case to enclose the new water panels/controls (which have exposed levers that kids could pull).

CITY OF OAKLAND



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

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: L18-0161, Jackman v. Tenants
PROPERTY ADDRESS: 2437 and 2439 MacArthur Blvd., Oakland, CA
DATE OF HEARING: March 2, 2019
DATE OF DECISION: June 19, 2019
APPEARANCES: Rosa Isela Jackman, Owner
William E. Jackman, Owner
No Appearance by Tenants

SUMMARY OF DECISION

The Landlord Petition for Certificate of Exemption is denied. The subject property is not exempt from the Rent Adjustment Program.

CONTENTIONS OF THE PARTIES

On September 4, 2018, the owners, William and Rosa Jackman, filed a petition for Certificate of Exemption on the ground of substantial rehabilitation.

No tenants filed responses to the owners' petition and no tenants appeared for the hearing.

ISSUES

1. Did the owners have good cause to be relieved from the moratorium?
2. Is the property exempt from the Rent Adjustment Program on the ground of substantial rehabilitation?

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EVIDENCE

Background

The entire property consists of one commercial unit and a single-story residential duplex located behind the commercial unit. Each unit has its own street number: 2433 MacArthur Blvd. is the commercial space, which was converted to a hair salon; and 2437 and 2439 MacArthur Blvd. are the residential units located in the duplex behind the commercial space. The petition is requesting exemption based on substantial rehabilitation of the residential duplex only.

The owners testified that in the past forty-two years the commercial space operated as the Jade Soccer Center/Oakland Billiard Supply store and the duplex was used as the storage for the sports equipment inventory. The current owners purchased the property in 2017 and renovated the residential duplex in the fall of 2017.¹ The owners submitted Alameda County Secured Property Tax Statement, showing their names, address, the address of the subject property and the APN 28-906-30.²

Notice to Tenants

On March 4, 2019, an Order and a Notice of Hearing was mailed to all parties, including all tenants identified in the owner's petition with a proof of service, notifying the tenants of the Landlord Petition for Certificate of Exemption, and setting the hearing date for March 12, 2019. No mail was returned as non-delivered. The Order and Notice of Hearing were properly served. No tenants filed responses and no tenants appeared for the hearing. The Hearing Officer waited until 10:15 a.m. on March 12, 2019, for the tenants to appear and then proceeded with the hearing as scheduled.

Request for a Relief from Moratorium

The owners began construction in August of 2017, finished in January of 2018, and received the final approval in July of 2018. The owners testified that while the construction project was completed in January of 2018, they had to wait for the final inspection by PG&E to approve the electrical work for over six months. They waited until July of 2018 for electric service and ultimately obtained the finalized permit.

The owners testified that they visited the RAP office in January of 2018 and were told they needed to obtain the final permit before they can file their petition. They waited from January to July of 2018 to obtain the final permit and then filed their petition on September 3, 2018.

¹ Exhibit A

² Exhibit B

Square Footage of the Building

The Alameda County Assessor Property Characteristics shows the square footage of the entire building as 2,240 and the commercial space as 1,115.³ Therefore, the square footage of the residential duplex is 1,125 square feet.

Final Permits and the Cost of the Permits

The owner submitted copies of the following permits:

- 2 Electrical E1703231, issued 8/31/2017 and 9/12/2017 for \$398.41 and \$229.50;
- Plumbing P1702506, issued 8/31/2017 for \$424.58;
- Mechanical M1701754, issued 8/31/2017 for \$623.67; and
- Residential Building RB1704862, issued 10/23/2017 for \$919.73.⁴

The owner also submitted a copy of permit B1705785 for a "repair of drywall with insulation in a commercial space at front".⁵ Since this permit did not include work on the residential duplex, the cost of \$398.64 for this permit will not be considered as it is not part of the project done on the residential duplex. The City of Oakland permit record for the subject property shows that all permits listed above were finalized and approved in the fall of 2017.⁶

Scope of the Rehabilitation Project

The owners testified that the rehabilitation project included new electrical system, new plumbing, new wall furnaces, replacement of sheetrock and adding insulation in the walls, replacement of new windows and a complete bathroom remodel in both units. The project began in August of 2017 and was completed in January of 2018.

The owners testified that while they waited for the final permit, they did additional work, specifically, replacing and paving of sections of walkways/patio and building a storage shed for the tenants in the back of the apartments in May of 2018.

Construction Expenses

The owners hired Miguel Barahona Construction for most of the rehabilitation project. The construction crew included Miguel Barahona, his sons, brother and brother-in-law. The owners submitted copies of fourteen (14) checks payable to Miguel or Estela Barahona in the total amount of \$68,520.00 for the period from August 13, 2017, to December 23, 2017.⁷

³ Exhibit C

⁴ Exhibit D

⁵ Exhibit E

⁶ Exhibit F

⁷ Exhibit G

The owners retained L.S. Construction for sewer lateral replacement and submitted a copy of an invoice, showing a date of completion of October 10, 2017, for \$1,400.00, and a copy of the check, payable to L.S. Construction for \$1,400.00, on October 29, 2017.⁸ X

The owners retained Sanchez Iron Work for building and installation of security doors, gates, railings and bannisters, and submitted copies of four (4) checks, payable to Carlos Sanchez from October 25, 2017, through January 29, 2018, for the total amount of \$7,350.00.⁹ X

The owners retained Mar Electric Service for the electrical upgrade and installation of subpanel conduit, wires, meters and submitted a copy of an invoice, dated March 23, 2018, for \$5,795.00, and copies of three checks, dated April 15 (\$1,295.00), April 28 (\$2,500.00) and May 24, 2018 (\$2,000.00).¹⁰

The owners submitted copies of checks or credit card statements showing the payments made to the City of Oakland for permits listed above in the total amount of \$2,595.89.¹¹ X

The owners submitted copies of nine (9) checks payable to James C. Scott for property management services, consulting or construction management. The checks are for different amounts and for period from July 18, 2017, through August 25, 2018, for the total amount of \$2,560.35.¹²

In addition, the owners submitted copies of twelve (12) checks to Barahona for the period from January 28, 2018, through November 12, 2018, for the total amount of \$47,994.40.¹³ The owners testified that while they were waiting for the finalized permit from the electric company, they retained Miguel Barahona Construction to do additional work, specifically, to build a storage shed, including brick floor around the storage shed, picnic table for the patio, laundry room, and a lattice cover for water heater.¹⁴

The owners submitted copies of Citi credit card statements showing charges to the Home Depot from September through December of 2017, in the total amount of \$11,065.30.¹⁵ The owners also submitted copies of Chase Visa credit card statements showing charges to the Home Depot in the total amount of \$17,537.63.¹⁶ No receipts were submitted to show the type of those charges and what kind of merchandise was purchased.

⁸ Exhibit H

⁹ Exhibit I

¹⁰ Exhibit J

¹¹ Exhibit K

¹² Exhibit L

¹³ Exhibit M

¹⁴ Exhibit N

¹⁵ Exhibit

¹⁶ Exhibit P

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Good Cause for a Relief from Moratorium

On November 28, 2017, the Oakland City Council passed Ordinance No. 13465, which placed a Moratorium on Exemptions of New Substantial Rehabilitations, which stated that petitions for exemption filed on or after October 20, 2017, shall be considered new exemption requests and NOT be accepted for filing.¹⁷ On April 17, 2018, the Oakland City Council extended the Moratorium by another 180 days.¹⁸

Both ordinances provide that if any Owner believes that said owner should be eligible to file a petition for a substantial rehabilitation exemption during the period of the moratorium, the owner may file a petition seeking relief from the moratorium that includes the basis for such relief.¹⁹

In this case the owners testified that they relied on the RAP Staff who told them on January 30, 2018, that they may not submit the petition until the rehabilitation was completed, which was an accurate statement. The owners completed the rehabilitation project by January of 2018 but had to wait to obtain the final permit from the electric company in July of 2018. Subsequently, the owners filed their petition on September 3, 2018. The owners mistakenly believed that the moratorium began in April 2018 and they missed the deadline to file before the moratorium.

The effective date of moratorium was October 20, 2017, for 180 days and the moratorium was extended by another 180 days in April 2018. The owners began the rehabilitation project in August of 2017 and completed it by January of 2018, when they came to inquire about the exemption to the RAP Office. The Moratorium was in full effect in January of 2018. The rehabilitation project was not completed before the start of the moratorium on October 20, 2017. The owners testified that they relied on the RAP staff and waited with filing of their petition until after they received the final permit in July of 2018. While reliance on staff does not constitute good cause, it would not have made any difference if the owners filed in January 2018 or September 2018. The Moratorium was in effect from October 20, 2017, for 180 days and then extended for another 180 days from April 17, 2018.

The owners did not provide any evidence supporting good cause for a relief from the moratorium. This is not an instance when the project was completed prior to the effective date of the moratorium but the petition could not be filed because the owners had to wait for the final permit, which was obtained after the moratorium went into effect. Therefore, they are not entitled to a relief from the moratorium.

¹⁷ O.M.C. §8.22.030 A.6 and §8.22.030 B.2

¹⁸ Ordinance No. 13481

¹⁹ Ordinance No. 13465 Section 3 and Ordinance No. 13481 Section 4

Substantial Rehabilitation

Even if the owners stated good cause for a relief from the moratorium, O.M.C. 8.22.030(A)(6) states that dwelling units located in "substantially rehabilitated buildings" are not "covered units" under the Rent Adjustment 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.²⁰

It is undisputed that the construction began in August 2017 and was completed by the end of December of 2017. The subject building is a Duplex, wood-frame construction, Category V. The attached Table "A", issued by the Building Services Agency on January 1, 2017, refers to a dollar amount per square foot for new construction, which shows \$196.12 for the subject property.

Expenses Included in the Calculation

The owners provided evidence of the following amounts that are included in the calculation for the cost of the project:

- Barahona Construction August-December 2017:	\$68,520.00
- LS Construction	\$ 1,400.00
- Sanchez Iron Work	\$ 7,350.00
- Mar Electric	\$ 5,795.00
- Cost of permits	\$ 2,595.89
- Scott Construction Mngmt July-December 2017:	\$ 2,160.35
	Total: \$87,821.24

Expenses Not Included in the Calculation

The following amounts are not included in the calculation because they are not allowable expenses for the rehabilitation project:

- Cost of permit B1705785 for repair in a commercial space	\$398.64
- Mar Electric work in April and May of 2018 which was after the completion of the rehabilitation project	\$5,795.00
- Scott Management fee charged after the completion of the rehabilitation project (after December 2017)	\$400.00

²⁰ O.M.C. Section 8.22.030(B)(2)

- Barahona Construction charged after the completion
Of the rehabilitation project (after December 2017)
And fee charged for storage shed, laundry room, patio,
Table, cover for water heater – these are not part of
Square footage for the rehabilitation project \$47,994.40
- Citicard (\$11,065.30) and Chase Visa (\$17,537.63)
Statements of charges to the Home Depot but not
Substantiated by the actual receipts showing the
Description of purchased merchandize and/or purchased
after the project completed – after December of 2017 \$28,602.93

Calculation

To determine if the owner is entitled to the exemption the following calculation is necessary: multiply the square footage of 1,125 by \$196.12 and divide that by 2 as follows: $1,125 \times \$196.12 = \$220,635 \div 2 = \$110,317.50$. Accordingly, to be exempt from the Rent Ordinance, the owners would have to show that they spent at least \$110,317.50 on the construction project.

The owner provided evidence that he spent a total of \$87,832.24 on the rehabilitation project. This amount is less than \$110,317.50, the minimum amount required to satisfy the exemption based on substantial rehabilitation. Therefore, this petition is also denied for this reason.

ORDER

1. The petition L18-0161 is denied.
2. The owner is not entitled to a relief from the moratorium.
3. The units in the residential duplex are not exempt from the Rent Adjustment Ordinance.

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

Dated: June 19, 2019



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

City of Oakland Bureau of Building Construction Valuation¹ For Building Permits⁴ Effective January 1, 2017	Planning and Building Department Dalziel Administration Building 250 Frank Ogawa Plaza - 2nd Floor Oakland, CA 94612 510-238-3891
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Occ.	Description ³	Construction Type	Level Ground		Hillside Construction ²		Marshall & Swift December 2016
			New	Remodel	New	Remodel	
R3	Single Family Residence	V	\$286.52	\$122.89	\$307.48	\$159.89	Section 12 pg 25 (C/e)
	Duplex/Townhouse	V	\$196.12	\$101.98	\$247.95	\$132.58	Section 12 pg 21 (C/e)
	Factory/Manufactured home	V	\$73.45	\$38.19	\$95.49	\$49.65	Section 13 pg 9 (Exc)
	Finished Habitable Basement Conversion	V	\$125.58	\$65.00	\$163.25	\$84.89	Section 12 pg 25 (CDS/a)
	Convert non-habitable to habitable	V	N/A	\$125.58	N/A	\$163.25	Section 12 pg 26 (CDS/g)
	Partition Walls (S.F.)	V	N/A	\$17.23	N/A	\$22.39	Section 52 pg 1 (C/Wall)
	Foundation Upgrade (L.F.)	V	\$119.10	N/A	\$147.03	N/A	Section 31 pg 2 (R24x7)
	Patio/Borch/Roof	V	\$28.60	\$14.87	\$37.18	\$19.33	Section 66 pg 2 (Wood)
	Ground Level Decks	V	\$15.53	\$9.69	\$24.08	\$12.52	Section 60 pg 2 (1008/alg)
	Elevated Decks & Balconies	V	\$31.13	\$17.75	\$44.36	\$23.07	Section 66 pg 2 (1008/L/Slab)
U1	Garage	V	\$43.73	\$22.74	\$56.85	\$29.56	Section 12 pg 35 (C/a60)
	Carport	V	\$35.75	\$18.59	\$46.48	\$24.17	Section 12 pg 35 (D/24ft)
	Retaining wall (S.F.)	III	\$37.05	N/A	\$49.17	N/A	Section 55 pg 3 (12' retaining)
R2	Apartment (>2 units)	I & II	\$195.00	\$101.40	\$253.50	\$131.82	Section 11 pg 16 (B/g)
		III	\$175.50	\$91.26	\$228.15	\$118.62	Section 11 pg 16 (Cmill/a)
		V	\$148.20	\$77.06	\$192.66	\$100.18	Section 11 pg 18 (D/g)
Non-Residential Occupancy							
A	Church/Auditorium	I & II	\$310.62	\$161.52	\$403.81	\$209.98	Section 16 pg 9 (B/g)
		III	\$223.28	\$116.10	\$290.26	\$150.93	Section 16 pg 9 (B/a)
		V	\$207.48	\$107.89	\$269.72	\$140.26	Section 16 pg 9 (S/g)
A	Restaurant	I & II	\$265.33	\$137.97	\$344.93	\$179.36	Section 13 pg 14 (A-B/g)
		III	\$204.36	\$106.27	\$265.67	\$138.15	Section 13 pg 14 (C/g)
		V	\$191.89	\$99.78	\$249.46	\$129.72	Section 13 pg 14 (D/g)
B	Restaurant <50 occupancy	V	\$170.35	\$88.58	\$221.46	\$115.16	Section 13 pg 17 (C/a)
B	Bank	I & II	\$265.32	\$137.96	\$344.91	\$179.35	Section 15 pg 21 (B/a)
		III	\$214.05	\$111.30	\$278.26	\$144.89	Section 15 pg 21 (C/a)
		V	\$201.29	\$104.67	\$261.68	\$136.07	Section 15 pg 21 (D/a)
B	Medical Office	I & II	\$298.29	\$155.11	\$387.77	\$201.64	Section 15 pg 22 (A/g)
		III	\$288.82	\$150.19	\$375.47	\$195.24	Section 15 pg 22 (B/g)
		V	\$235.95	\$122.69	\$306.74	\$159.50	Section 15 pg 22 (C/g)
B	Office	I & II	\$196.25	\$102.05	\$255.12	\$132.66	Section 15 pg 17 (B/a)
		III	\$142.04	\$73.86	\$184.65	\$96.02	Section 15 pg 17 (C/a)
		V	\$134.30	\$69.84	\$174.59	\$90.79	Section 15 pg 17 (D/a)
E	School	I & II	\$255.80	\$133.02	\$332.54	\$172.92	Section 18 pg 14 (A-B/g)
		III	\$200.51	\$104.27	\$260.67	\$135.55	Section 18 pg 14 (C/g)
		V	\$193.21	\$100.47	\$251.17	\$130.61	Section 18 pg 14 (D/g)
H	Repair Garage	I & II	\$218.37	\$113.55	\$283.89	\$147.62	Section 14 pg 33 (MSG 527C/e)
		III	\$211.86	\$110.17	\$275.42	\$143.22	Section 14 pg 33 (MLG 423C/e)
		V	\$203.87	\$106.01	\$265.03	\$137.81	Section 14 pg 33 (MLG 423D/e)
I	Care Facilities / Institutional	I & II	\$220.73	\$114.78	\$286.95	\$149.21	Section 15 pg 22 (B/a)
		III	\$178.89	\$93.02	\$232.56	\$120.93	Section 15 pg 22 (C/a)
		V	\$170.63	\$88.73	\$221.81	\$115.34	Section 15 pg 22 (D/a)
M	Market (Retail sales)	I & II	\$170.77	\$88.80	\$222.00	\$115.44	Section 13 pg 26 (A/g)
		III	\$137.49	\$71.49	\$178.73	\$92.94	Section 13 pg 26 (C/g)
		V	\$130.20	\$67.70	\$169.25	\$88.01	Section 13 pg 26 (D/g)
S	Industrial plant	I & II	\$186.23	\$96.84	\$242.09	\$125.89	Section 14 pg 15 (B/a)
		III	\$145.89	\$75.86	\$189.65	\$98.62	Section 14 pg 15 (C/a)
		V	\$130.25	\$67.73	\$169.32	\$88.05	Section 14 pg 15 (D/a)
S	Warehouse	I & II	\$115.30	\$59.95	\$149.89	\$77.94	Section 14 pg 26 (A/g)
		III	\$108.60	\$56.47	\$141.18	\$73.41	Section 14 pg 26 (B/g)
		V	\$106.52	\$55.39	\$138.48	\$72.01	Section 14 pg 26 (Cmill/g)
S	Parking Garage	I & II	\$91.53	\$47.80	\$118.99	\$61.88	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 Secc. 99 pg 6 December 2016 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.

PROOF OF SERVICE
Case Number L18-0161

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

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

Documents Included

Hearing Decision

Owner

William & Rosa Jackman
2816 School Street
Oakland, CA 94602

Tenant

Karl & Tessa Fixen-Lavdiotis
2439 MacArthur Blvd
Oakland, CA

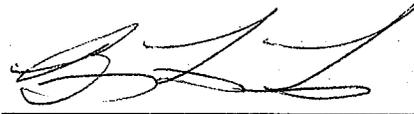
Tenant

Kirsten R Jusewicz
2437 MacArthur Blvd
Oakland, CA

Tenant

Laura Perez
2437 MacArthur Blvd
Oakland, CA

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 26, 2019** in Oakland, CA.



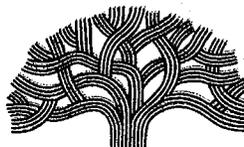
Brittni Lothlen

Oakland Rent Adjustment Program

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RECEIVED

 CITY OF OAKLAND CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp. JUL 15 2019 RENT ADJUSTMENT PROGRAM OAKLAND <u>APPEAL</u>
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Appellant's Name Rosa Isela & William E. Jackman		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Property Address (Include Unit Number) 2437 MacArthur Blvd., Oakland, CA 94602 2439 " " " " "		
Appellant's Mailing Address (For receipt of notices) 2816 School Street Oakland, CA 94602		Case Number L18-0161 Date of Decision appealed June 19, 2019
Name of Representative (if any)	Representative's Mailing Address (For notices)	

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

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

For more information phone (510) 238-3721.

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

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

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •
 I declare under penalty of perjury under the laws of the State of California that on _____, 20____, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Not applicable. No tenants filed responses to the owner's petition, and no tenants appeared for the hearing.

Name	<i>Not applicable. No tenants filed responses to the owner's petition, and no tenants appeared for the hearing.</i>
Address	
City, State Zip	
Name	
Address	
City, State Zip	

<i>William E. Jackman</i> <i>Rosa Isela Jackman</i>	<i>July 14, 2019</i>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

LETTER IN SUPPORT OF APPEAL OF RENT ADJUSTMENT PROGRAM
HEARING DECISION OF CASE NUMBER L18-0161, JACKMAN VS.
TENANTS

DATE OF DECISION: JUNE 19, 2019

We, William E. Jackman and Rosa Isela Jackman, appeal the rent adjustment program hearing decision of case number L18-0161, Jackman v. Tenants for property addresses 2437 and 2439 MacArthur Blvd., Oakland CA 94602. We address below the reasons cited for the denial of our petition.

- **MAR Electric charges \$5,795.00 denied because after completion of renovation project for duplex.**

This is not supported by evidence and is factually incorrect. We purchased the property on August 8, 2017 and by August 24, 2017 Victor Martínez, owner of MAR Electric, was already communicating with PG&E about replacement of the electric wiring and system in the duplex, 2437 and 2439 MacArthur Blvd (enclosure).

MAR Electric first replaced the wiring and by October 13, 2017 was communicating with PG&E about replacement of the electric service, "boxes" which connect the duplex to the PG&E grid (enclosure).

MAR Electric did not have funds available to buy the equipment for the new electric service and on October 29, 2017 asked us to put these purchases on one of the credit cards we were using for the renovation (enclosure). We made these purchases on November 4 and 6, 2017 (enclosures, \$1,375.00 and \$4,350.00).

We were scrambling to find funds for the renovation of the duplex by using credit cards and loans. Victor Martínez and his sister Cecilia are long-time personal friends of Rosa. They are from Chile, and Rosa is from Mexico, and they have been clients of Rosa in her hair salon, Rosa's Hair Salon, for as long they have known each other. Victor gave us a break by holding off on submitting to us an invoice for his labor services until we were able to secure another loan (enclosure, March 23, 2019). Victor and

000033

his crew did most their work in 2017, but stayed with us as we waited with bated breath for clearances from the City of Oakland and PG&E.

- **Barahona Construction charges \$47,994.40 denied because after completion of renovation project for duplex.**

This is not supported by evidence and is factually incorrect. The basic renovation of the duplex was completed by the end of 2017, but the work done in early 2018 was necessary not optional. Although there was no gas nor electricity, the units were showable in 2018. Paul Robertson (510 681-6835), who represented our account with Western Management Properties of Oakland, began showing the units in early 2018. He got consistent feedback from potential about:

- No parking
- No garage for storage
- No laundry facilities.

Several potential women renters expressed concern that there are no public **laundry facilities** in Dimond district. So, they would drive to some laundromat (for example, at the corner of Foothill Boulevard and Fruitvale Avenue) and then come home at night and not find anywhere to park on the street nearby the duplex. Paul (Robertson) convinced us that to make the duplex acceptable to today's renters in Oakland we would have to provide a laundry facility in the duplex. We accepted Paul's recommendation and had this done.

Other potential renters commented to us about **insufficient storage space** in the units. They said they had bicycles, luggage, camping gear, skis, etc. that would not fit in the existing duplex storage. They said that if the duplex had garages, they could use them for storage. But the duplex does not have garages. Again, Paul convinced us that to make the duplex acceptable to today's renters in Oakland we would have to provide sufficient storage space. So, in the latter part of May 2018, we added the storage shed for the duplex with separate secure storage areas for each unit.

Virtually all the potential renters of our duplex remarked about **no**

parking. Women, in particular, expressed concern about coming home at night and having to park blocks away from the duplex. Paul convinced us that to make the duplex acceptable to today's renters in Oakland we would have to offer the renters something in exchange for no parking: hence, the laundry and storage facilities.

None of these were concerns during the 42 years our predecessors, the Gees, owned the duplex because they used it only for storage for soccer and billiard inventory for their store in front at 2433 MacArthur Blvd.

Potential renters also commented that the **levers** of the new **water heater** and related equipment were **exposed** and should be covered. Children could reach up and pull the levers and disrupt water service. Paul also noted this. So, Barahona Construction built us a lattice cover for this exposed water heater.

- **CitiCard (\$11,065.30) and Chase Visa (\$17,557.63) denied because after completion of renovation project for duplex. Also, statements of charges from Home Depot but not substantiated by the actual receipts showing the description of purchased merchandize.**

This is not supported by evidence and is factually incorrect. The renovation of the duplex extended until May 23, 2019 when we passed our final City of Oakland inspection for Residential Building – Alteration (Record ID: RB1704862, Inspector: Ivan G. Ramirez). (Our first renters moved in on June 11, 2018.) The renovation of the duplex was **not** completed in December 2017 as the Hearing Decision says. The amounts of \$11,212 on the CitiCard and \$23,169 on the Chase Visa card are the correct amounts we spent on the renovation of the duplex.

Actual receipts showing the description of purchased merchandize.

At our hearing on March 2, 2019, we pointedly asked Ms. Linda Moroz, the hearing officer, if submitting the statements from Home Depot with the charges would be sufficient or did we need to submit all the detailed receipts. Ms. Moroz told us clearly that submitting the statements from Home Depot with the charges **would be sufficient**.

We do have all the detailed which we would like to show you in person. The purchases were all made by our main contractor Miguel Barahona

who went with Rosa to Home Depot and other stores to buy the materials. Rosa paid for them with our credit cards. Miguel knew what the purchases were for and said that more than 90 percent of the purchases he made with the CitiCard and the Chase Visa card were for the duplex; less than 10 percent were for the commercial space. The commercial space, 2433 MacArthur Blvd., had been a functioning soccer and billiards store which had been maintained and did not need extensive renovation.

- **Cost of permit B1705785 for repair in a commercial space denied.**

This is not supported by evidence and is factually incorrect. Part of this permit was for the duplex. We wrote in our initial submission (time stamped on September 4, 2018),

“We paid \$2,443 for City of Oakland permits to renovate the duplex. This is out of a total of \$2,995 we paid for permits. All permits were exclusively for the duplex except permit B1705785 which was for insulation and sheet rock in the commercial space and except the electrical permit dated September 1, 2017 which was shared between the commercial space and outside lighting for the duplex; one-third of the cost of this permit (\$76.50 out of \$229.50) was allocated to the duplex. Please see enclosed list of permits.”

- **Scott Management fee charged after completion of renovation project for duplex.**

This is not supported by evidence and is factually incorrect. We have already established above that the renovation of the duplex extended until May 23, 2019 when we passed our final City of Oakland inspection for Residential Building – Alteration (Record ID: RB1704862, Inspector: Ivan G. Ramirez).

The whole process of trying to get permits and licenses from the City of Oakland and from PG&E was worrisome and nerve-racking from start to finish. We needed help with this ordeal. James Scott is an experienced developer who accompanied us to City of Oakland permit offices in 2017 and 2018. In fact, only one payment to him was for 2018, a check for \$100 dated March 20, 2018.

- **“Reliance on Staff Does Not Constitute Good Cause”**

We are not sure how to interpret the remark in your Hearing Decision of June 19, 2019, “Reliance on Staff Does Not Constitute Good Cause”. It appears to demean your professional staff when you indicate that we should not depend on them for information.

Before we prepared our petition for exemption, **we met with Susan Ma of your staff on January 30, 2018**. She instructed us what to do, but did not tell us that our petition would not be accepted because it would be after October 20, 2017. She did tell us that we could not submit our petition until the rehabilitation was completed. For this reason, we did not make our submission until **September 3, 2018**. Ms. Ma also told us to provide all relevant details, so we put a lot of work and time into properly preparing this petition.

We read later in the *East Bay Times* that a moratorium on exemptions based on substantial rehabilitation was proposed by the City of Oakland on September 17, 2018 and passed on October 2, 2018. However, this was after we submitted our petition on September 3, 2018.

Ms. Susan Ma is a professional, and Paul Robertson (cited above) speaks highly of her. Your suggestion that we should not have believed information she gave us does not seem appropriate and borders on the outrageous.

We end this letter by restating a conclusion from our original submission (timestamp September 4, 2018).

To summarize: The cost of new construction of the duplex would be \$220,635, fifty percent of this cost is \$110,318, and our renovation costs of \$139,075 are greater than \$110,318.

\$139,075 > \$110,318


William E. Jackman
July 14, 2019


Rosa Isela Jackman
July 14, 2019

000037

From: Trujillo, Daniel
Sent: Tuesday, August 29, 2017 3:38 PM
To:
Cc: Trujillo, Daniel
Subject: AV 113187074 2433 & 2435 MACARTHUR BLVD OAKLAND 08-29-17

Good afternoon Victor Martinez,

I am Daniel C. Trujillo and this project is aligned to me. I would like to review the application with you, confirm some information and ask a few questions. I am typically in the office week days from 7 AM to 3:30 PM. Please contact me at your convenience.

Thank you,



Daniel C. Trujillo - DCT6@PGE.COM
 Senior New Business Representative
 SP&M Oakland Service Center
 External 510-437-2474 / Internal 510-437-2474

PGE Greenbook <http://www.pge.com/greenbook/>

From: EastBay AV Inbox
Sent: Thursday, August 24, 2017 7:35 AM
To:
Cc: Trujillo, Daniel; Dufrane, Jack
Subject: AV # 113187074 2433 & 2435 MACARTHUR BLVD OAKLAND 94602

Dear Mr. Victor Martinez:

Thank you for your application.

Daniel Trujillo from PG&E's Customer Service Delivery department is in receipt of your application for service. Daniel is the project coordinator assigned to help you achieve your service related needs and will contact you within the next three (3) business days to discuss your project. If you do not hear from him, please feel free to contact him via email at DCT6@pge.com or phone at (510) 437-2474.

My name is Jack Dufrane and I am the Customer Service Delivery department supervisor. Our goal is to provide excellent service throughout your entire PG&E experience. If, at any time, you are not satisfied with your experience please do not hesitate to contact me via JMDJ@pge.com or (925) 519-0242 so I can help resolve your concerns.

You may receive the attached Project Satisfaction Survey via email or US mail at the end of your project. Please take a moment to look this over to better understand our process as well as drivers for providing an excellent customer experience. Please note: the email address related to the PSS Survey is pgeconstruction@rdagroup.com. This email is filtered by most spam filters which will automatically send the survey to your SPAM folder.

Thank you for allowing us the opportunity to serve you. We look forward to the successful completion of your project.

Thank you!

AV 113187074 2433 & 2435 MACARTHUR BLVD OAKLAND 09-05-17 field meet & 10-13-17 update

From: "Trujillo, Daniel" <dct6@pge.com>
To: "M"
Cc:
Subject: AV 113187074 2433 & 2435 MACARTHUR BLVD OAKLAND 09-05-17 field meet & 10-13-17 update
Date: Oct 13, 2017 9:07 AM
Attachments: [image001.png](#) [image004.png](#) [image008.jpg](#) [Billing for Energy.docm](#)

Good morning Victor,

Thanks for taking time to meet with Terry Walker Mullings on 09-06-17. Attached please complete the attached form once you confirm the needed voltage and return to me for the billing information and please provide me the owners phone number, so I may update the application.

Here is a summary of the meeting and project:

You are upgrading to a 200A panel, 120/208 or 120/240 voltage, 3W, 1P service. Please confirm what voltage is being requested. There will be 2 commercial businesses at 600 square feet each, 2 apartments at 750 square feet each and there is 1 Clear Channel bill board. Perhaps you can approach Clear Channel to see if they will split the costs for the project. The two commercial businesses and bill board are required to have test by pass (see section 7.2.2 for the requirements. Today, 10-13-17, you shared the customer will trench. If you do your own trenching it will cost approximately 3 to 6 thousand dollars and if PG&E does the trenching the cost will be approximately 6-10 thousand dollars. The engineering advance of \$2,500 will need to be paid before the job can be sent to engineering and this will be deducted from the contract. Engineering takes approximately 4-6 months for electric.

You are inquiring if the service can now be placed toward the rear of the building near the existing electric panel, I will research, please follow up with me on this. *alan abee approved putting the pull box toward rear*

The City of Oakland will need to approve the term can in front of the building, the location should be to the left of the conduit that is currently in place. All of the meters will need to be permanently labeled accurately with appropriate addresses:

The three examples on the following page describe acceptable permanent markings.

- A. An identification plate attached by screws, rivets, or weatherproof adhesive.
- B. Paint that cannot be removed using common solvents. Apply the paint either by using a stencil or by carefully hand-lettering the meter.
- C. Manufactured decals that do not peel or fade. Sticker-type labels are no longer acceptable.

Please refer to sections 5, 6, 7 of the Green book.

Section 5 Electric Metering General

https://www.pge.com/includes/docs/pdfs/mybusiness/customerservice/otherrequests/newconstruction/greenbook/greenbook_manual.pdf#page=161

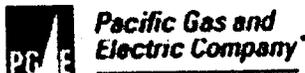
Section 6 Electric Metering Residential

https://www.pge.com/includes/docs/pdfs/mybusiness/customerservice/otherrequests/newconstruction/greenbook/greenbook_manual.pdf#page=199

Section 7 electric Metering, Industrial and Agricultural

https://www.pge.com/includes/docs/pdfs/mybusiness/customerservice/otherrequests/newconstruction/greenbook/greenbook_manual.pdf#page=219

Thank you,



Daniel C. Trujillo - DCT6@PGE.COM
 Senior New Business Representative
 SP&M Oakland Service Center
 External 510-437-2474 / Internal 510-437-2474

PGE Greenbook <http://www.pge.com/greenbook/>

Mar Electric Service

Invoice

License # 638343
 4278 Atlas Ave
 Oakland, CA 94619
 Phone: (510) 333-3294

DATE March 23, 2018
 Invoice # _____

BILL TO: WILLIAMS AND ROSA JACKMAN

Work Location: 2433-2435-2437-2439- MAC ARTHUR BLVD OAKLAND Invoice Due Upon Receipt

Description of work performed	AMOUNT
SUMMARY OF PARTS:	
SAFECO ELECTRIC TOTAL COST DISCONNECT AND METERS MAIN ONE PAYMENT OF	\$4,675.00 \$4,350.00
EMPEROR SUPPLY INC.; SUBPANEL CONDUIT, WIRES, HARDWARE ONE PAYMENT OF	\$2,355.00 \$1,375.00
DUE IN PARTS pd. w. ck # 6687 dated apr 15, 2018 \$1,295.00 →	1,295.00
LABOR ck # 6693, dated apr 28, 2018 \$2,500 4,500 - 2,500 \$2,000 ← balance due	\$4,500.00
a	
DUE TOTAL	\$5,795.00

Balance due paid with
 ck # 6711, dated May 24, 2018
 \$2,000.00

Renovation of Duplex, 2437 and 2439 MacArthur Blvd.
Oakland, CA 94602
August 16, 2017 to July 12, 2018

Owners: William E. and Rosa Isela Jackman
2816 School Street, Oakland, CA 94602, (510) 508-9573
Purchased: August 8, 2017

The duplex was used as a storage facility for soccer and billiards
inventory and equipment by the Jade Soccer Center/Oakland Billiard Supply
(located at 2433 MacArthur Blvd., in front of the duplex)
for over four decades prior our purchase of it in August, 2017.

COST CATEGORY

Materials/Supplies/Appliances

How Purchased:

CITICARD	\$	11,212
CHASE CARD	\$	23,169
WELLS FARGO CARD	\$	1,958
Purchased by Main Contractor	\$	19,103
Purchased by Electrical Contractor	\$	777

TOTAL MATERIALS	\$	56,218
Labor (Main Contractor)	\$	65,979
Labor (Electrical Contractor)	\$	2,700
Iron Work (Security doors, gates, bannisters, etc.)	\$	7,350
Sewer Lateral Replacement	\$	1,059
Permits (City of Oakland)	\$	2,443
Construction Management	\$	2,260
PG&E Design/Construction Costs	\$	1,065
TOTAL RENOVATION COSTS, AUG 16, 2017-JUL 12, 2018	\$	139,075

000041

De Victor ^{Martinez} 29 de octubre de 2017

* Safeco Electric Supply

check for \$ 4.350

(Electrical service, conduit, wires)

* Emperor Electrical Supply

check for \$ 975
400

(4 sub panel, Romex 6/3)
1.375

119 10th St
Oakland
near Lanex College,
Lake Merritt BART

\$ 1.375

Safeco
or

Peer Light Inc

201 To Pand St, San Fran 94124-1119

(415) 206-0689

Tony

1,375

4,350

5,725

24 mins

15.4 mi

SAFECO ELECTRIC INC
201 TOLAND ST
SAN FRANCISCO, CA 94124
4152060368

SALE

TID: 001 REF#: 00000008
Batch #: 151
11/06/17 11:16:30
APPR CODE: 03169D
VISA Chip
*****6018 **/**

AMOUNT \$4,350.00

APPROVED

CHASE VISA
AID: A0000000031010
TVR: 00 80 00 80 00
TS: F8 00

THANK YOU
PLEASE COME AGAIN

CUSTOMER COPY

(7) Chase Card

SAFECO ELECTRIC INC
201 TOLAND ST
SAN FRANCISCO, CA 94124
4152060368

SALE

MID: 5587955
TID: 001 REF#: 00000008
Batch #: 151
11/06/17 11:16:30
APPR CODE: 03169D
VISA Chip
*****6018 **/**

AMOUNT \$4,350.00

APPROVED

X _____

CHASE VISA
AID: A0000000031010
TVR: 00 80 00 80 00
TS: F8 00

I AGREE TO PAY ABOVE TOTAL AMOUNT
IN ACCORDANCE WITH CARD ISSUER'S
AGREEMENT (MERCHANT AGREEMENT IF CREDIT
VOUCHER) RETAIN THIS COPY FOR STATEMENT
VERIFICATION

THANK YOU
PLEASE COME AGAIN

MERCHANT COPY

SAFECO ELECTRIC INC
201 TOLAND ST
SAN FRANCISCO, CA 94124
4152060368

SALE

TID: 001 REF#: 00000008
Batch #: 151
11/06/17 11:16:30
APPR CODE: 03169D
VISA Chip
*****6018 **/**

AMOUNT \$4,350.00

APPROVED

CHASE VISA
AID: A0000000031010
TVR: 00 80 00 80 00
TS: F8 00

THANK YOU
PLEASE COME AGAIN

CUSTOMER COPY

000043 over

6
Chase Card

MAR elect.

EMPEROR SUPPLY INC
119 10TH ST
OAKLAND CA 94607
510-832-8888

Terminal ID: 01474985 2672
11/4/17 9:08 AM

CHASE VISA - INSERT
AID: A0000000031010
ACCT #: *****6018

CREDIT SALE

UID: 730817740107 REF #: 7867

BATCH #: 703 AUTH #: 04179D

AMOUNT \$1375.00

APPROVED

ARQC - CBE 12840E8CE485C

CUSTOMER COPY

over

000044

CONSOLIDATED CHRONOLOGICAL CASE REPORT

Case Nos. & Names E18-0012 through E18-0017
 Homes East Bay 4 LLC v. Tenants

Property Address: 1218 Miller Ave., Unit #s 101,106, 301, 302, 303, 304,
 Oakland, CA

Parties: Bally Singh (Agent for Owner)
 David Martin (Attorney for Owner)
 Liver Guzman (Witness for Owner)
 Juan Martinez (Witness for Owner)
 Marvin Merida (Witness for Owner)
 Gary Sinick (Tenant)
 Rocio Toriz (Attorney for Tenants)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Owner Petitions filed for all cases	November 14, 2018
No Tenant Responses filed	-----
Hearing Decision mailed to all parties	May 31, 2019
Owner Appeal filed for all cases	June 20, 2019

RECEIVED

NOV 14 2018

E18-0012 KM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <u>OWNER PETITION</u> <u>TO EXTEND TIME OF TENANT</u> <u>VACANCY TO MAKE REPAIRS</u>
--	---

Please Fill Out This Form Completely. If you need more space you may attach additional pages.
Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: 510-225-9161 E-mail:
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: E-Mail:
Tenant(s) names (s) Josh Picard & peter James	Address of unit being repaired (with zip code) 1218 Miller Ave (# 303), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	<u>Current Address (if known)</u> (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No _____ Business License #: 00204530
 The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.)

Have you paid the Rent Adjustment Program (RAP) Service Fee? Yes No _____
 The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.)

Date of Termination notice to tenant: 60 days notice issued date Nov 19th, 2017 and Org repairs completeiuon date Dec 1st 2018.

I (We) will need to extend the time to complete repairs to the following date: Dec 30, 2019

Reason for delay in completing repairs:

Please attach organized documentation and a separate sheet with a full explanation of reason for delay.

Verification

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

 Landlord's Signature

11/13/2018

 Date

Major Construction is in progress, and ETA for completion is Dec 2019 due to fact that Tenants didn't moved until April 2018. They all were paid relocation funds in May 2018. Please see scope of work

RE: 1218 Miller Ave 94601

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

1. Complete interior demolition (Drywall, Stair, floors and subfloors, this will include all dump fees)
2. Prepare first floor structural temp framing support in preparation for footing excavation
3. Footing exaction
4. Under plumbing Installation
5. Rebar installation
6. Concrete installation
7. Moment-resisting frame and steel beam welding connection
8. Existing framing removal in preparation for new lay out framing
9. Temp shoring removal
10. Structural framing
11. Waste plumbing
12. Drywall stoking
13. Pre-rock mechanical chases
14. Pre insulate and pre rock corridors in preparation for new electrical feeders from unit to main switch gear
15. Electrical
16. Mechanical (by others)
17. Plumbing
18. Window preparation
19. Insulation
20. R.C Chanel
21. Drywall
22. Tape, top skim & texture to 1 and 3rd floor 2nd will stay with fire tape and primer only.
23. Hardy backer to shower areas
24. Tile
25. Gypcrete installation to 2nd and 3rd floor
26. Paint
27. Cabinet and top installation
28. Interior trim
29. Flooring (laminare flooring)
30. Clean up and final acceptance

000047



New Rent Program Service Fee Application

Please read instructions on reverse PRIOR to completion.

Mail completed applications to:
City of Oakland Business Tax, 250 Frank H. Ogawa Plaza, Suite 132
Telephone: 510.238.3704 TT

748.00 +
374.00 +
748.00 +
374.00 +
15.00 %
168.50 +
748.00 +
374.00 +
168.50 +
1,290.30 +

All residential rental property owners are required to pay an annual Business Tax. To obtain a NEW BUSINESS TAX RENTAL APPLICATION, please visit the <http://www2.oaklandnet.com/w/OAK046736>

Property Ownership Information (must match information on Alameda County Records)

LAST NAME	FIRST NAME
1a. Homes East Bay 4, LLC	
1b.	
1c.	

2. Rental Start Date (MM/DD/YY): 04 / 07 / 20 17	4. Rental Location: 1218 Miller Ave
---	--

3. Dwelling Type (check one): <input type="checkbox"/> SFR <input type="checkbox"/> Duplex <input type="checkbox"/> Triplex <input type="checkbox"/> Condominium/Townhouse <input checked="" type="checkbox"/> Multiple-unit Dwelling: 4 or more Units	5. Total Number of Residential Units, including owner-occupied units (as shown on the Alameda County records): 11 units
--	--

6. Number of Exempt Units (indicate number of Exempt Units next to the correct reason code: A: ___ B: ___ C: ___ D: ___ E: ___ F: ___) (See table on the reverse side of this form for explanation of codes)

Contact Information:

7. Mailing Name: Homes East Bay 4, LLC	Attention:
--	------------

Mailing Address: PO Box 24483 Oakland CA 94623

8. Daytime Phone Number: (510) 910.4467	9. Contact Phone Number: (510) 910.4467	10. Website Address:
---	---	----------------------

11. Contact Email(s): invoices@smceastbay.com

CHECK THIS BOX IF YOU WISH TO OPT OUT OF PAPER CORRESPONDENCE - VALID EMAIL IS REQUIRED

Rent Adjustment Program Fee Information:

12. Number of Units: Enter unit count from LINE 5	12.	11
13. Number of Exempt Units: Enter total exempt units from LINE 6	13.	0
14. TOTAL Number of Units Subject to the Fee: SUBTRACT LINE 13 from LINE 12	14.	= 11
15. Rent Program Service Fee Due: Amount on Line 14 x \$68.00 =	15.	748
16. Penalty (if paid 31+ days after Start Date): See instructions to calculate penalty percentage	16.	374
17. Interest (if paid 31+ days after Start Date): [Total Rent Program Fee + Penalty] x 1% (per month)	17.	168.30
18. Total Due: ADD Lines 15, 16 & 17; make check payable to "City of Oakland RAP"	Total:	1290.30

Acknowledgement:

I declare under penalty of perjury that to my knowledge all information contained on this form is true and complete.

Signature: [Signature]	Title: Admin Assistant	Date: 06/08/2018
------------------------	------------------------	------------------

INITIALS
 DATE
 PAYEE
 PAY TYPE
 AMOUNT
 BANK/USE CODE

RECEIVED

NOV 14 2018

E18-0013 KM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 53.13 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <u>OWNER PETITION</u> <u>TO EXTEND TIME OF TENANT</u> <u>VACANCY TO MAKE REPAIRS</u>
---	---

Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: 510-225-9161 E-mail: _____
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-Mail: _____
Tenant(s) names (s) Melissa Aros & Tommy Phavong	Address of unit being repaired (with zip code) 1218 Miller Ave (# 302), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	<u>Current Address (if known)</u> (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No _____ Business License #: 00204530
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11/13/2018

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RE: 1218 Miller Ave 94601

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

1. Complete interior demolition (Drywall, Stair, floors and subfloors, this will include all dump fees)
2. Prepare first floor structural temp framing support in preparation for footing excavation
3. Footing exaction
4. Under plumbing Installation
5. Rebar installation
6. Concrete installation
7. Moment-resisting frame and steel beam welding connection
8. Existing framing removal in preparation for new lay out framing
9. Temp shoring removal
10. Structural framing
11. Waste plumbing
12. Drywall stoking
13. Pre-rock mechanical chases
14. Pre insulate and pre rock corridors in preparation for new electrical feeders from unit to main switch gear
15. Electrical
16. Mechanical (by others)
17. Plumbing
18. Window preparation
19. Insulation
20. R.C Chanel
21. Drywall
22. Tape, top skim & texture to 1 and 3rd floor 2nd will stay with fire tape and primer only.
23. Hardy backer to shower areas
24. Tile
25. Gypcrete installation to 2nd and 3rd floor
26. Paint
27. Cabinet and top installation
28. Interior trim
29. Flooring (laminare flooring)
30. Clean up and final acceptance

000050

RECEIVED

NOV 14 2018

E18-2014 RM/SK

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA. 94612
Mail: P.O. Box 70243, Oakland, CA 94612-0243
(510) 238-3721 Phone
(510) 238-6181 Fax

For date stamp RENT ADJUSTMENT PROGRAM
OAKLAND

OWNER PETITION
TO EXTEND TIME OF TENANT
VACANCY TO MAKE REPAIRS

Please Fill Out This Form Completely. If you need more space you may attach additional pages.
Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-mail: _____
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-Mail: _____
Tenant(s) names (s) Jessica & Gregory Chen	Address of unit being repaired (with zip code) 1218 Miller Ave (# 301), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	<u>Current Address (if known)</u> (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No _____ Business License #: 00204530
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.)

Have you paid the Rent Adjustment Program (RAP) Service Fee? Yes No _____
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.)

Date of Termination notice to tenant: 60 days notice issued date Nov 19th, 2017 and Org repairs completeioun date Dec 1st 2018.

I (We) will need to extend the time to complete repairs to the following date: Dec 30, 2019

Reason for delay in completing repairs:

Please attach organized documentation and a separate sheet with a full explanation of reason for delay.

Verification

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

Landlord's Signature

11/13/2018

Date

Major Construction is in progress, and ETA for completion is Dec 2019 due to fact that Tenants didn't moved until April 2018. They all were paid relocation funds in May 2018.
Please see scope of work

RE: 1218 Miller Ave 94601

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

1. Complete interior demolition (Drywall, Stair, floors and subfloors, this will include all dump fees)
2. Prepare first floor structural temp framing support in preparation for footing excavation
3. Footing exaction
4. Under plumbing Installation
5. Rebar installation
6. Concrete installation
7. Moment-resisting frame and steel beam welding connection
8. Existing framing removal in preparation for new lay out framing
9. Temp shoring removal
10. Structural framing
11. Waste plumbing
12. Drywall stoking
13. Pre-rock mechanical chases
14. Pre insulate and pre rock corridors in preparation for new electrical feeders from unit to main switch gear
15. Electrical
16. Mechanical (by others)
17. Plumbing
18. Window preparation
19. Insulation
20. R.C Chanel
21. Drywall
22. Tape, top skim & texture to 1 and 3rd floor 2nd will stay with fire tape and primer only.
23. Hardy backer to shower areas
24. Tile
25. Gypcrete installation to 2nd and 3rd floor
26. Paint
27. Cabinet and top installation
28. Interior trim
29. Flooring (lamine flooring)
30. Clean up and final acceptance

000052

RECEIVED

NOV 14 2018

E18-0015 KM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <u>OWNER PETITION</u> <u>TO EXTEND TIME OF TENANT</u> <u>VACANCY TO MAKE REPAIRS</u>
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Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: E-mail: _____
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: E-Mail: _____
Tenant(s) names (s) Gary Sinick	Address of unit being repaired (with zip code) 1218 Miller Ave (# 106), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	<u>Current Address (if known)</u> (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No _____ Business License #: 00204530
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.)

Have you paid the Rent Adjustment Program (RAP) Service Fee? Yes No _____
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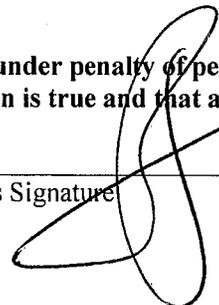
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Please attach organized documentation and a separate sheet with a full explanation of reason for delay.

Verification

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

Landlord's Signature _____


11/13/2018
Date _____

Major Construction is in progress, and ETA for completion is Dec 2019 due to fact that Tenants didn't moved until April 2018. They all were paid relocation funds in May 2018.
Please see scope of work

RE: **1218 Miller Ave 94601**

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

1. Complete interior demolition (Drywall, Stair, floors and subfloors, this will include all dump fees)
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17. Plumbing
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19. Insulation
20. R.C Chanel
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22. Tape, top skim & texture to 1 and 3rd floor 2nd will stay with fire tape and primer only.
23. Hardy backer to shower areas
24. Tile
25. Gypcrete installation to 2nd and 3rd floor
26. Paint
27. Cabinet and top installation
28. Interior trim
29. Flooring (lamine flooring)
30. Clean up and final acceptance

000054

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NOV 14 2018

E18-0016 KM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <u>OWNER PETITION</u> <u>TO EXTEND TIME OF TENANT</u> <u>VACANCY TO MAKE REPAIRS</u>
--	--

Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: E-mail: _____
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: E-Mail: _____
Tenant(s) names (s) Kevin Friedrichsen	Address of unit being repaired (with zip code) 1218 Miller Ave (# 101), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	<u>Current Address (if known)</u> (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No _____ Business License #: 00204530
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.)

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Landlord's Signature

11/13/2018

Date

Major Construction is in progress, and ETA for completion is Dec 2019 due to fact that Tenants didn't moved until April 2018. They all were paid relocation funds in May 2018. Please see scope of work

RE: **1218 Miller Ave 94601**

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

1. Complete interior demolition (Drywall, Stair, floors and subfloors, this will include all dump fees)
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23. Hardy backer to shower areas
24. Tile
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26. Paint
27. Cabinet and top installation
28. Interior trim
29. Flooring (laminare flooring)
30. Clean up and final acceptance

000056

RECEIVED

NOV 14 2018

E18-0017 KM/SK

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA. 94612
Mail: P.O. Box 70243, Oakland, CA 94612-0243
(510) 238-3721 Phone
(510) 238-6181 Fax

For date stamp RENT ADJUSTMENT PROGRAM OAKLAND
OWNER PETITION
TO EXTEND TIME OF TENANT
VACANCY TO MAKE REPAIRS

Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Form with 4 rows and 3 columns: Your Name, Mailing Address, Daytime Telephone, E-mail; Your Representative's Name, Mailing Address, Daytime Telephone, E-Mail; Tenant(s) names, Address of unit being repaired, Telephone; Tenant(s) names, Current Address, Telephone.

Have you paid for your Oakland Business License? Yes x No Business License #: 00204530
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.)

Have you paid the Rent Adjustment Program (RAP) Service Fee? Yes x No
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Verification

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

Landlord's Signature (with handwritten signature)

11/13/2018
Date

Major Construction is in progress, and ETA for completion is Dec 2019 due to fact that Tenants didn't moved until April 2018. They all were paid relocation funds in May 2018. Please see scope of work

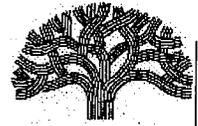
RE: 1218 Miller Ave 94601

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

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29. Flooring (lamine flooring)
30. Clean up and final acceptance

000058



250 FRANK OGAWA PLAZA, #5313 OAKLAND, CA 94612 CITY OF OAKLAND

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBERS: E18-0012 through E18-0017, Homes East Bay 4 LLC
v. Tenants

PROPERTY ADDRESS: 1218 Miller Ave., Units 303, 302, 301, 106. 101 & 304, Oakland,
CA

DATE OF HEARING: April 16, 2019

DATE OF DECISION: May 21, 2019

APPEARANCES: Bally Singh (Agent for Owner)
David Martin (Attorney for Owner)
Liver Guzman (Witness for Owner)
Juan Martinez (Witness for Owner)
Marvin Merida (Witness for Owner)
Gary Sinick (Tenant)
Rocio Toriz (Attorney for Tenants)

SUMMARY OF DECISION

The owner's petitions are denied.

CONTENTIONS OF THE PARTIES

The owner filed petitions on November 14, 2018, pursuant to Oakland Municipal Code (O.M.C.) Section 8.22.360(A)(10) which allege that more time will be needed to complete repairs to the subject rental units until December 30, 2019.

THE ISSUE

Is there a valid reason to allow the owner additional time to complete repairs to the subject units?

000059

EVIDENCE

At the Hearing, Mr. Singh testified that in the Fall of 2016, there was a fire in the subject 11-unit building, after which PG&E turned off all electricity and gas. The building was then “red-tagged” by the City, which declared it to be uninhabitable. All tenants have since moved out of the building, but left most of their possessions. The owner bought the subject building in September or October 2017. The last tenant moved out in May 2018, and no tenant has moved back into his or her unit.

Mr. Singh further testified that the prior owner had construction plans drawn, and building permits were taken out. He did not know what work was done before the current owner bought the building. The current owner is using the same plans, although there have been several changes. Construction by the current owner began in May or June 2018.

A lot of work has been done on the foundation and partial electric wiring and plumbing has been installed, along with some framing, sheer walls, and windows. Much work remains to be done, including the removal of a 5-foot section on the first floor, due to setback requirements. Prior to the Hearing, the owner had submitted no documents. The construction project has been delayed due to problems with building permits.

The Notice of Hearing sent to the parties states in part: “All proposed evidence, including but not limited to documents and pictures, must be submitted to the Rent Adjustment Program not less than fourteen (14) days prior to the Hearing. . . Proposed evidence presented later may be excluded from consideration.”

At the Hearing, Mr. Singh testified that the failure to submit proposed evidence was “an oversight.” He then submitted copies of the following documents;

- (1) A 3-page Permit Record Card from the City Planning & Building Department.¹ The first page of this document states that a Building Permit was issued for the subject building on December 28, 2017, for the purpose of legalizing 9 joint live-work units.

The second page, entitled “Inspector Notes,” contains 3 hand-written entries. The first of these entries, dated September 18, 2018, states, in part: “OK to pour foundation.”

The third page, which states various types of construction and has areas on which a Building Inspector can note inspections, is entirely blank.

- (2) A 2-page document from the City Inspection Services agency regarding the subject building, entitled “Record Detail with Inspection Log.”²

¹ Exhibit Nos. 1A through 1C. These documents were marked for identification at the Hearing, but were not admitted into evidence. At that time, this Hearing Officer stated that a determination as to their admissibility would be determined at a later date, and be set forth in the Hearing Decision.

² Exhibits marked 2A & 2B. These proposed exhibits were produced following a 25-minute pause to allow the owner to obtain further documentation from the Inspection Services agency.

The first page of this document states, in part: "Date: 6/20/2017 . . . All walls, electrical, plumbing and mechanical systems were installed without permits, inspections and approvals. . . . All work is required to be exposed for inspections. . . . OK to pour foundations, grade beams and tie beams for interior walls only. The second page states, in part:

"12/4/2018 – Under floor first side shear and anchors ok to cover with second side. Repeat inspection when ready."

"1/9/2019 – Correction notice as follows. Special inspection is required to be performed by a structural engineer. . . This special inspection is supposed to precede city approval with letter or copy of to be received by city inspector. Current inspection does not confirm compliance with all elements of sheer wall as designed and shown on plans. Special inspection reports re required at next scheduled city inspection."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

O.M.C. Section 8.22.360(A)(10) – a subsection of the "Just Cause for Eviction" Ordinance – states that one ground for evicting a tenant is when

The Owner of record, after having obtained all necessary permits from the City of Oakland on or before the date upon which notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot be completed while the unit is occupied . . .

Upon recovery of possession of the rental unit, the owner of record shall proceed without unreasonable delay to effect the needed repairs. The tenant shall not be required to vacate in excess of three months; provided, however, that such time period may be extended by the Rent Board upon application by the landlord. . .

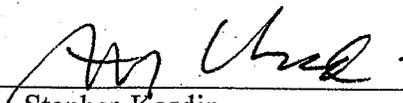
The owner's petitions are denied for two reasons. First, the owner's reason for not submitting documentation is not legally sufficient. For this reason alone, the petitions should be denied. Further, an original building permit was taken out in late 2017, soon after the owner purchased the building. The owner's petition was not filed until November 2018, and seeks an extension of time to make repairs until December 30, 2019. This is an additional reason to deny the petitions.

ORDER

1. Petitions E18-0012 through E18-0017 are denied.
3. **Right to Appeal:** This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached

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

Dated: May 21, 2019



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

000062

PROOF OF SERVICE
Case Number E18-0012

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

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

Documents Included
Hearing Decision

Owner
Homes East Bay 4 LLC
1669 12th Street Suite O
Oakland, CA 94607

Owner Representative
Bally Singh
1669 12th Street Suite O
Oakland, CA 94607

Owner Representative
David w Martin
5350 James Ave
Oakland, CA 94618

Tenant
Josh Picard
1218 Miller Avenue #303
Oakland, CA 94601

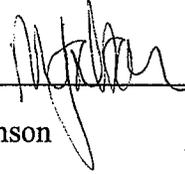
Tenant
Peter James
1218 Miller Avenue #303
Oakland, CA 94601

Tenant Representative
Rocio Toriz
428 13th St 8th Floor
Oakland, CA 94612

000063

I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the 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 31, 2019** in Oakland, CA.



Nia Johnson

Oakland Rent Adjustment Program

000064



CITY OF OAKLAND

Planning & Building Department

BUILDING SERVICES

250 Frank H. Ogawa Plaza 2nd Floor Oakland, CA 94612

Telephone (510) 238-3444

www.oaklandnet.com

Fax (510) 238-7287

PERMIT RECORD CARD

COMMERCIAL & MULTI-UNIT RESIDENTIAL

California Building, Residential, Electrical, Plumbing, Mechanical, Energy and Green Building Codes

Oakland Building, Planning Sustainability, Fire and Municipal Codes

Address:	1218 MILLER AVE, Oakland, CA 94601	Suite:		APN:	020 010400800
Description:	Legalize (9) joint live-work units To abate CE#1700282	Issued:	12/28/2017		
		Building Use:	To Be Determined In Field		
		Occupancy:	R-7 Live / Work JLWQ		
		Type:	VB - Combustible Constructio		
Owner:	Homes East Bay 4 Llc C/O Bally Singh			Stories:	3
Contractor:	CARLOS & BROTHERS			# units:	9
Permits:	B1702409	AMR1700218	E1704490	Sprinkler:	
Allocated Inspections	999	3			

SPECIAL INSPECTION LIST (checked items are required)

Reinforced Concrete, Gunite, Grout & Mortar				Structural Wood						
CONCRETE	GUNITE	GROUT	MORTAR	Aggregate Test	Shear Wall Nailing	Structural Observations				
				Reinforcing Test	Eng. Lumber Insp.	Sample and Test Components				
				Mix Designs	Structural Steel/Welding					
				Reinforcing Place	Sample and Test (list specific numbers below)					
				Batch Plant Insp.	Shop Material Identification					
				Cast Samples	Welding Inspection					
				Compression Tests	Ultrasonic Inspection					
				Anchors	High-Strength Bolting					
				Test Panels	A325	A490	N	X	FIELD	F
				Precast/Pre-stressed Concrete				Metal Deck Welding Inspection		
PIERS	POST-TENSION	PRE-TENSION	CLADDING	Aggregate Test	Reinforcing Steel Welding Insp	Unit Weights				
				Reinforcement Test	Metal Stud Welding Inspection	Placement Insp				
				Placement Insp.	Concrete Inset Welding Inspection	Sample & Test				
				Tendon Test	Structural Masonry					
				Mix Designs	Special Inspection Stresses Used					
				Reinforcement Place	Preliminary Acceptance (masonry units, wall prisms)					
				Insert Placement	Subsequent Tests (mortar, grout, field wall prisms)					
				Concrete Batching	Placement Inspection of Units					
				Concrete Placement	Fireproofing					
				Installation Insp.	Placement Inspection	Thickness Test				
Cast Samples	Density Tests	Inspection Batching								
Compression Test	Mastic & Intumescent Coatings									
Green Building Cert.	E&D Tracking									
HERS Verification	Site Drainage									
PSL (sewer lateral Cert)	Grading			Seismic Force Resistive System						
Additional Instructions/Inspections Required:				Special Case						

RTA

INSPECTOR NOTES

date
sign BUILDING

9/18/18 OK TO POUR FOUNDATIONS, GRADE BEAMS, TIE-BEAMS FOR INTERIOR WALLS - TYPE G SHEAR-. OK TO POUR POST BASES PER 2/22. OK TO POUR STAIR LANDING FOOTERS

12/3/18 under floor shear detail SZ OK to receive 2nd side sheathing. tv

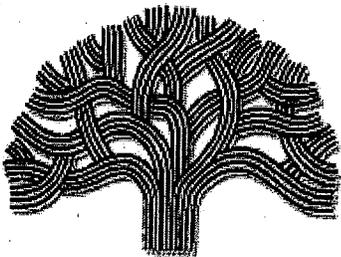
1-9-19 C/M S.I. req'd for rebar epoxy anchors of seismic elements before city inspt. KSP

date
sign ZONING

1	FOUNDATION Major Inspection	2	FIRST FLOOR Major Inspection	3	FRAME Major Inspection	4	FINAL Major Inspection	5	SITE
	ELECTRICAL		ELECTRICAL		ELECTRICAL		ELECTRICAL		PRE-CONSTRUCTION
E	CONSTRUCTION POWER	E	UNDERFLOOR	E	SUBPANEL/ FEEDER	E	SMOKE & CO ALARMS	S	PRE-CON MEETING
E	UFER	E	CABLE PROTECTION	E	WALLS	E	EQUIPMENT/ DEVICES	S	OBSTRUCT/ ENCROACH
E	UNDERGROUND/ CONDUIT/ CABLE	E	EXTERIOR WIRING	E	BOX MAKE-UP	E	UTILITY RELEASE/ TRANSFORMER	S	SURVEY/ ELEVATION
E	SINGLE SERVICE			E	SUSPENDED CEILING	E	ENERGY/ CAL GREEN	S	GRADING
E	SERVICE RACEWAY			E	ROUGH	E	FINAL ELECTRICAL	S	CREEK PROTECTION
								S	TREE PROTECTION
P	UNDERGROUND	P	UNDERFLOOR	P	DWV PIPING	P	ROOF DRAINS	S	VEGETATION CLEARING
P	BACKWATER VALVE	P	DRAINS (FIRE/ CONDEN/ MISC)	P	GAS PIPING	P	GAS TEST	S	DUST & EROSION CONTROL
P	INTERCEPTOR (SO)	P	FLOOR RECEPTORS	P	WATER PIPING/ SERVICE	P	UTILITY RELEASE	S	C6 & RAINWATER RUNOFF
P	INTERCEPTOR (GREASE)			P	TUB / SHOWER PAN	P	ENERGY CODE/ CAL GREEN	S	EXCAVATION SHORING
				P	BACKFLOW DEVICES	P	CHLORINATION/ SI REPORTS	S	TRAFFIC CONTROL & PARKING
				P	ROUGH	P	FINAL PLUMBING	S	BLIGHT/ NOISE/ TOILET
								S	50F
								S	50G
								S	50H
								S	50I
								S	50K
								S	50L
								S	50M
								S	50F
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Update Results



CITY OF OAKLAND

Record Detail with Inspection Log

Record ID: B1702409

Description: Legalize (9) joint live- work units To abate CE#1700282

APN: 020 010400800

Address: 1218 MILLER AVE

Unit #:

Date Opened: 6/2/2017

Record Status: Reinstated

Record Status Date: 7/6/2018

Job Value: \$2,947,292.00

Requestor: Carlos Correa

:

Business Name: CARLOS & BROTHERS

License #: 954523

Inspection Date	Inspector Name	Inspection Type	Status / Result	Result Comments
6/20/2017	Robert Bernal	Field Check	Need More Info on Plans	Date: 6/20/2017 Summary: Sanborn, PTS and Accela do not show records of the buildings conversion to live/work units. All walls, electrical, plumbing and mechanical systems were installed without permits, inspections and approvals. The floors and ceilings appear to be original along with the windows. All work is required to be exposed for inspections. If you believe the structure was converted to live/work spaces with permits, inspections and approvals, please provide the documentation to your code enforcement inspector. The plans submitted reflect proposed work with a revision required to show how headroom is going to be achieved through the stair landings and stairs. The 2nd floor, designated as storage, has 7' or 6' headroom, plus or minus, throughout. The stair landings have beams and floor elevation changes that reduce the headroom to 6' plus or minus. Other areas of the stairs lack the required 6'8" clearances. The left-side of the structure shows alterations to allow for light and ventilation. The neighboring property has a structure built up to this structure and it is assumed that the alterations to achieve light and ventilation, will be to the sides of the neighboring structure. The rear of the structure, shown as being on the property line, abuts a parking lot for businesses. OK to plan check after revisions made.
9/18/2018	Dave Velez	Foundation	Partial	

000068 4/16/2019

12/4/2018	Tam Vo	Frame	Partial
1/9/2019	Keith Pacheco	Frame	Not Pass

OK to pour foundations, grade beams and tie beams for interior walls only. Exterior walls to come. OK to pour landing for rear unit stairs and footers for beams per detail 2/S2. Date: 12/4/2018 Under floor first side shear and anchors ok to cover with second side . Repeat inspection when ready .

Date: 1/9/2019 Correction notice as follows. Special inspection is required to be performed by a structural engineer for reinforcing steel, epoxy anchors, And all seismic elements including plywood nailing, fasteners and straps. This special inspection is supposed to precede city approval with letter or copy of to be received by city inspector. Structural plans our combined details for foundation and under first floor shear walls as well as above first frame floor shear walls. I am unable to determine if all above floor shear walls are supposed to have shear walls beneath them extending to foundation. Current inspection does not confirm compliance with all elements of shear wall as designed and shown on plans. Special inspection reports are required at next scheduled city inspection.

For real-time, direct access to information via the Internet, 24 hours a day - <https://aca.accela.com/oakland>

000069 **2B1**



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

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
For date stamp.

2019 JUN 20 AM 11:50

SK/KCN

APPEAL

Appellant's Name Homes East Bay 4 LLC		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1218 Miller Avenue, Unit #s 101, 106, 301, 302, 303, 304			
Appellant's Mailing Address (For receipt of notices) 1669 12th Street, Suite O Oakland, CA 94607		Case Number E18-0012 through E18-0017	
		Date of Decision appealed May 21, 2019	
Name of Representative (if any) Michael J. McLaughlin, Esq.		Representative's Mailing Address (For notices) McLaughlin Sanchez LLP 605 Market Street, Suite 300 San Francisco, CA 94105	

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

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

For more information phone (510) 238-3721.

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

Submissions to the Board must not exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 2.

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •
 I declare under penalty of perjury under the laws of the State of California that on _____, 20____, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	See attached Proof of Service
<u>Address</u>	
<u>City, State Zip</u>	
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	6/20/2019
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

ATTACHMENT A

In his Hearing Decision, the hearing officer stated the following two grounds for denying Petitioner's Petitions to Extend Time of Tenant Vacancy to Make Repairs ("Petitions"): (1) that the owner failed to submit documentation to the Rent Board more than 14 days before the hearing on the Petitions and (2) that the owner did not file the Petitions until November 2018 despite an original building permit being issued in late 2017.

The Alleged Failure to Timely Submit Documents to the Rent Board

Petitioner did not fail to timely submit the required documents necessary to find sufficient reason to grant his request that the Rent Board extend the time that the tenants needed to be out of possession. In his Petitions, the owner provided the Rent Board the factual basis for why the rehabilitation work did not begin until May or June 2018. The delay was caused by one tenant's refusal to move after the expiration of a 60-day notice terminating tenancy. The Petitions also provided the entire scope of work that needed to be done before the units would be suitable for re-occupancy. That scope of work included 30 substantial items of work. The only documents that were not submitted prior to the hearing were documents relating to the project's permits. But those permit documents were not necessary for the Rent Board to determine that the work would take longer than 90 days to complete. The permit documents do not tend to support or contradict the owner's conclusion that the scope of work would require more than 90 days to complete and that the tenants would need to be out of possession for a longer period. Finally, the issuance of permits is a prerequisite to an effective notice terminating tenancy under Section 8.22.360(a)(10), and thus evidence of the permits was not required in order to establish the need for an extension of time. Thus, the owner's Petitions should have been granted.

The Alleged Delay in Seeking an Extension of Time for Tenant Vacancy

Petitioner did not unreasonably delay in petitioning the Rent Board for an extension of the time for the tenants to be out of possession to make repairs. The owner began construction in or about May/June 2018. One of the tenant's refused to move out of his unit after the expiration of the 60-day notice period following service of a notice terminating his tenancy. It was that recalcitrant tenant's refusal to move that led to the owner's several-month delay in starting the work following the date it took title to the building.

Moreover, it was only after construction/demolition was well underway, and the owner's licensed contractor opened the walls in the building, that the contractor discovered that the building's condition did not match the existing plans. The owner's contractor was required by state law to submit revised plans and to wait for the City of Oakland's approval of those revised plans before continuing the construction/demolition work. During the construction/demolition process, the owner's licensed contractor was required to seek approval for two revised plans based on his discovery of the building's

condition. Each of those revisions to the owner's plans took between one and two months to obtain City of Oakland approval. Up until the time the owner's licensed contractor began the construction/demolition, the owner had no knowledge – and could not have known – that the building's condition would require revisions to the initial plans and that additional time would be necessary. There was little or no delay between the expansion of the scope of work and the request for approval of revised plans and the date the owner filed its Petitions. Thus, there was no unreasonable delay and the owner's Petitions should have been granted.

1 **PROOF OF SERVICE - CIVIL**

2 I declare that I am a citizen of the United States, over the age of eighteen years and not a
3 party to the within cause; my business address is 605 Market Street, Suite 300, San Francisco, CA
4 94105. On the date last listed below I served true copies of the foregoing **APPEAL** on the
interested parties in said action:

5 Kevin Friedrichsen
1218 Miller Ave #101
6 Oakland CA 94601

Gary Sinick
1218 Miller Ave #106
Oakland CA 94601

7 Gregory Chen
Jessica Chen
8 1218 Miller Ave #301
Oakland CA 94601

Melissa Aros
Tommy Phavong
1218 Miller Ave #302
Oakland CA 94601

9 Peter James
10 Josh Picard
1218 Miller Ave #303
11 Oakland CA 94601

Adriel Wong
Ignacio
1218 Miller Ave #304
Oakland CA 94601

12 in the manner set forth below:

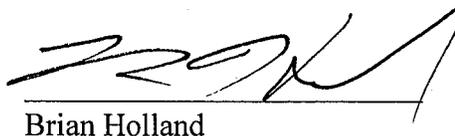
13 **BY UNITED STATES MAIL:** I caused true and correct copies of the above document,
14 by following ordinary business practices, to be placed and sealed in envelopes addressed to the
15 above addressees with United States First Class Mail postage fully prepaid thereon and for
16 collection and mailing with the United States Postal Service in the ordinary course of business,
correspondence placed for collection on a particular day, which is deposited with the United
States Postal Service that same day.

17 **BY OVERNIGHT MAIL:** I caused a true and correct copy of the above document, by
18 following ordinary business practices, to be placed and sealed in an envelope addressed to the
19 above addressee and for collection and mailing with the United States Postal Service's Express
Mail service in the ordinary course of business, correspondence placed for collection on a
particular day, which is deposited with the United States Postal Service that same day.

20 **BY MESSENGER SERVICE:** I caused a true and correct copy of the above document
21 to be delivered to the parties in such cause by hand delivery by placing same in a sealed envelope
22 addressed to the above addressee and providing same to a professional messenger service for
service.

23 **BY ELECTRONIC SERVICE:** I caused the above document to be electronically served
24 to the above addressee at the email address shown. The file transmission was reported as
complete.

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct, and that this declaration was executed at San Francisco, California
on June 20, 2019.

27 
28 Brian Holland

000074