

**CITY OF MOUNTAIN VIEW**  
**HEARING OFFICER DECISION PURSUANT TO**  
**THE COMMUNITY STABILIZATION AND FAIR RENT ACT (“CSFRA”)**

<b>Rental Housing Committee Case No.:</b>	C22230055, C22230056
<b>Address and Unit(s) of Rental Property:</b>	1556 California Street, Unit [REDACTED] Mountain View, CA 94041
<b>Petitioner Tenant Name(s):</b>	Oralia Belem Zavala Vasquez
<b>Respondent Landlord Name(s):</b>	Sergio Sanchez Morado
<b>Date(s) of Hearing:</b>	September 29, 2023
<b>Place of Hearing:</b>	Online via Zoom
<b>Date Hearing Record Closed:</b>	October 13, 2023
<b>Date of Decision:</b>	November 22, 2023
<b>Date of Mailing:</b>	See attached Proof of Service.
<b>Hearing Officer:</b>	Barbara M. Anscher

**I. PROCEDURAL HISTORY**

1. On June 28, 2023, Petitioner Oralia Belem Zavala Vasquez (“Petitioner,” “Tenant,” or “Ms. Zavala”) filed with the City of Mountain View Rent Stabilization Division (the “City” or “City Rent Division”) two Petitions for a downward rent adjustment, specifically Petition A: Downward Rent Adjustment—Unlawful Rent, and Petition B: Failure to Maintain Habitable Premises or Decrease in Housing Services or Maintenance as Defined by the CSFRA (individually, “Petition A” or “Petition B,” and collectively, the “Petitions”) for 1556 California Street, Unit [REDACTED] (the “Affected Unit”).
2. On August 18, 2023, the City served a Notice of Prehearing Meeting on the parties, setting a Prehearing Meeting date for September 6, 2023 at 10:00 a.m. and a tentative Hearing date of September 29, 2023 at 10:00 a.m. Attached to the Notice were a Hearing Information Sheet and Proof of Service.
3. A Prehearing Meeting was held by videoconference on September 6, 2023 at 10:00 a.m., as duly noticed.

4. At the Prehearing Meeting, the Hearing Officer explained hearing procedure and the burden of proof, answered the parties' questions, and discussed whether additional evidence would be requested.
5. On September 6, 2023, after the Prehearing Meeting, the Hearing Officer issued an Order, setting a deadline of September 18, 2023 for filing additional documents and witness lists. A Notice of Hearing Officer Prehearing Order and Notice of Hearing were served on the parties by the City on September 8, 2023.
6. On September 15, 2023, Respondent filed a witness list.
7. On September 18, 2023, Petitioner withdrew a claim in the Petition A for nonpayment of Registration Fees on the part of Respondent.
8. Also on September 18, 2023, Petitioner submitted additional documents, which were served on Respondent by the City.
9. A Hearing was held on September 29, 2023 at 10:00 a.m., as duly noticed.
10. One of Respondent's witnesses at the Hearing, [REDACTED], had to leave prior to the end of the Hearing and therefore was unable to testify. Respondent stipulated that on or before October 9, 2023, Ms. [REDACTED] would submit an affidavit containing her testimony.
11. After the Hearing on September 29, 2023, the Hearing Officer issued a Post-Hearing Order keeping the Record open in order to receive Ms. [REDACTED]'s affidavit. The Post-Hearing Order provided that the affidavit would be submitted on or before October 9, 2023, and a response from Petitioner would be submitted on or before October 13, 2023 or five days after receipt of the affidavit, whichever was later. A Notice of Hearing Officer Post-Hearing Order was served on October 2, 2023. Ms. [REDACTED]'s affidavit was filed on October 1, 2023 and served on all parties on October 4, 2023.
12. Petitioner filed a Response to Ms. [REDACTED]'s affidavit on October 13, 2023, and it was served on all parties on that date.
13. The Record was closed on October 13, 2023.

## **II. HEARING ATTENDANCE**

The following parties attended the Hearing: Petitioner Oralia Belem Zavala Vasquez; Respondent Sergio Sanchez Morado ("Respondent," "Mr. Sanchez," or "Landlord").

Petitioner was represented by Alysyn Martinez, Law Fellow, and Margaret McBride, Esq., Community Legal Services in East Palo Alto.

Patricia Black, Joann Pham, and Alitcel Camacho Perez were present for the City Rent Division. Spanish interpreters for the City of Mountain View, Flavia Toledo and Esperanza Sanz Escudero, also attended the Hearing and interpreted for Petitioner.

### III. WITNESSES

The following persons, duly sworn, testified at the Hearing and presented the following testimony:

#### Oralia Belem Zavala Vasquez

Ms. Zavala has lived in the Affected Unit since 2007. It has four rooms: a living room, kitchen, bathroom and bedroom. [REDACTED] and her mother live there with her. Prior to Mr. Sanchez becoming her Landlord, [REDACTED], Mr. Sanchez's aunt (the "former Landlord"), owned the Property. Ms. Zavala was informed in January 2022 that the former Landlord had died in December 2021 and that her nephew was going to be the new owner of the Property.

There was no written lease when Ms. Zavala moved into the Affected Unit. She only signed a written list of rules governing the Property. When Ms. Zavala moved in, the rent was \$800.00. She started paying \$825.00 when [REDACTED] came to live with her in 2014, and then \$850.00 in 2017 when her mother moved in. Ms. Zavala is not challenging the rent increases from \$800.00 to \$850.00.

Ms. Zavala currently pays \$900.00 per month in rent, and, as of the Hearing date, she was current on the rent through September 2023.<sup>1</sup> While Ms. Zavala's memory was foggy, it was established that prior to April 2021, she had been paying \$850.00 in rent. She was informed verbally of a rent increase of \$50.00 per month sometime in March 2021 by [REDACTED] ("Mr. [REDACTED]"), the former Landlord's property manager. In January 2023, Mr. [REDACTED] informed Ms. Zavala verbally that there would be a \$300.00 rent increase in February 2023 and another \$300.00 rent increase in March 2023. Ms. Zavala has not paid the rent increases demanded in 2023.

When the former Landlord was still alive, Ms. Zavala would either call her or go to her house to tell her about items in the Affected Unit that needed repairs. The former Landlord would send Mr. [REDACTED] to fix things. During that time, Ms. Zavala's boyfriend, [REDACTED], was also sent to do repairs in the Affected Unit, as was Mr. Sanchez. While the former Landlord was alive, Ms. Zavala would also sometimes call Mr. [REDACTED] directly to tell him about problems with the Affected Unit. She informed him directly about problems with the heater and the electricity. After the former Landlord's death, Ms. Zavala sent a letter to Mr. Sanchez by email and FedEx (the "Letter") informing him of the problems in the Affected Unit.

Ms. Zavala described mold on the walls and ceiling in the bedroom, living room, kitchen and bathroom. She showed pictures of visible mold on walls in the living room adjacent to the

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<sup>1</sup> Although it appears that Ms. Zavala submitted more check receipts than the actual payments she made, the evidence of payment for August 2023 was explained by Ms. Zavala as including a check that was rejected by Mr. Sanchez because it had his name wrong (check #126) and a check receipt for the replacement check (#127).

balcony and the front door, on the living room ceiling near the wall adjacent to the front door, and on the kitchen ceiling. The mold has been there since Ms. Zavala moved in to the Affected Unit, and it worsens during the rainy season. Ms. Zavala informed the former Landlord of the mold in 2010, and she had a relative paint over it. Ms. Zavala informed Mr. Sanchez of the mold in the Letter. The mold gives Ms. Zavala headaches, so she removes it with bleach.

The carpet has been in the Affected Unit since Ms. Zavala moved in. It has not been cleaned since then. Ms. Zavala was going to clean it herself, but her neighbor told her that Mr. Sanchez does not want anyone to clean the carpet because it will damage the wood flooring underneath. Ms. Zavala showed a photo of a long hole in the carpet which has been there for approximately five years, and she stated that in addition to being in bad condition, the carpet gives off a foul odor. Ms. Zavala informed Mr. Sanchez of the condition of the carpet in the Letter. She said that it is embarrassing to have a smelly carpet when she has guests over.

As of sometime in 2016, only one electrical outlet in the entire Affected Unit was functioning. In order to have electricity for the refrigerator, the stove and the lights in the kitchen and bedroom, Ms. Zavala had to run extension cords throughout the Affected Unit. She used very long extension cords in order to be able to place them around the baseboards so that no one would trip over them. The electrical problem existed for approximately eight years prior to finally being repaired on September 15, 2023. Ms. Zavala had informed the previous Landlord of the electrical issues, and she sent Mr. [REDACTED] several times to fix the problem, but it kept recurring. Ms. Zavala also informed Mr. Sanchez in the Letter. Ms. Zavala testified that at one point, Mr. [REDACTED] installed a fuse box in a neighbor's yard and told Ms. Zavala to go there to flip the switches whenever a fuse blew out. The neighbor ended up calling the police on her when she did that.

Ms. Zavala believes that the electrical problem caused issues with her freezer and refrigerator, which started about eight years ago. One day while she was at work, the freezer stopped working, all the food inside it thawed, and it leaked water into the refrigerator. The former Landlord repaired the freezer, but then the food in the refrigerator started freezing.

In addition to the temperature problems, there were parts inside the refrigerator that were broken, and the door was broken. She told her former Landlord about the refrigerator being dilapidated and freezing and thawing erratically, but nothing was done. She informed Mr. Sanchez about the problem in the Letter. The issues with the refrigerator caused her to have to throw away a lot of food over the years.

There were also problems with a leaking shower in the Affected Unit. The hot water leaked so much that it created humidity in the Affected Unit which could be felt in the walls, and Ms. Zavala stated that it felt like a sauna. Ms. Zavala informed the former Landlord, who sent her nephew, Mr. Sanchez, and he fixed it. However, after that, the cold water started leaking. Ms. Zavala testified that the hot water leak existed for approximately eight to ten years and that Mr. Sanchez repaired it about four years ago. The cold water leak has not been repaired. She

informed Mr. Sanchez about it in the Letter. She said that, in addition to the humidity from the hot water leak being very uncomfortable, the cold water leak is also annoying because she can hear it dripping at night time. Ms. Zavala testified that when Mr. Sanchez worked on the hot water leak, it took about a week, and they had no hot water during that time, so they had to go to the gym to take showers.

Ms. Zavala had problems with the stove for about seven or eight years. At first, one of the burners was not working, and eventually three burners stopped working, so she had only one burner to cook with. Not having a functional stove was very stressful; for example, in order to make breakfast for [REDACTED], she would have to wake up an hour early because it took 45 minutes to make something that with four functioning burners would have taken 15 minutes. She informed the former Landlord at the time that the first burner stopped working, and she later informed Mr. Sanchez of the nonfunctional stove in the Letter. A new stove was delivered on September 27, 2023. The new stove was supposed to be delivered a week earlier than it was, and Ms. Zavala twice took time off from work to be able to be at the Affected Unit for the delivery, but it did not arrive when promised, and Mr. Sanchez did not notify her of the change in delivery schedule.

The exhaust fan over the stove had also not worked for seven or eight years, and it was replaced when Mr. Sanchez repaired the electrical problems on September 15, 2023.

The smoke detectors in the Affected Unit were never replaced by the former Landlord, and they ceased to function. Ms. Zavala does not recall how long the smoke detectors were broken; she said that there had been an inspection a number of years ago where it was pointed out that they were not working, and they were never repaired or replaced. Mr. Sanchez replaced the smoke detectors the day before the second Multi-Family Housing (“MFH”) Inspection in July 2023.<sup>2</sup> However, Ms. Zavala said that the new smoke detectors do not seem to be working properly because the alarm sometimes goes off randomly in the middle of the night. The lack of functioning smoke detectors made Ms. Zavala fearful because she thought that the stove was leaking gas, and she feared that there would be a fire during the night which would go undetected.

Ms. Zavala testified that there were rats in the common areas outside which did not get into the Affected Unit, but which got into her car and chewed some cables so that the car would not start. It was parked in the parking area of the Property at the time. The rats were present on the Property since Ms. Zavala moved in. Ms. Zavala informed the former Landlord about what the rats had done to her car, but she did not tell Mr. Sanchez. She does not have any rat problems currently because her cat preys on them.

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<sup>2</sup> Notably, the May 31, 2023 MFH Inspection Report directs Mr. Sanchez to replace the smoke detectors within 48 hours. Instead, he took 41 days.

The two overhead lights in the kitchen stopped working about eight years ago until they were repaired on September 15, 2023. Ms. Zavala had informed her former Landlord that there were intermittent power outages where the lights would go out in the kitchen and various other parts of the Affected Unit. Because the kitchen lights did not work, she had to purchase a lamp.

The heat has not worked from the time Ms. Zavala moved in. For the first few years that she lived in the Affected Unit, she did not use the heat, so she did not really notice that it was not working. However, after she had been living there about five years, it was cold in December, so she attempted to turn the heat on, but it would not work. She told the former Landlord, who sent Mr. [REDACTED] to fix it. He said it could not be fixed, so the former Landlord bought a new heater; however, Ms. Zavala could never manage to get it to turn on when she used the thermostat to set the heat level. Mr. [REDACTED] told her to use a match to light the pilot, but she could not get that to work, either. Mr. Sanchez told her that the heater was a problem that PG&E had to resolve. PG&E sent a technician to the Affected Unit about two months prior to the Hearing, and they told her it was an issue that should be dealt with by the landlord. They said that the heater has to be cleaned. Last winter was very cold, so Ms. Zavala bought two space heaters. Ms. Zavala did not show the report from PG&E to Mr. Sanchez.

Ms. Zavala never refused to let Mr. Sanchez in to make repairs to the Affected Unit. She just wanted sufficient notice from Mr. Sanchez prior to entry. Sometimes he gave her prior written notice and other times he would verbally ask to enter, and she would agree.

Ms. Zavala believes that Mr. Sanchez intentionally locked her cat into a storage locker about three months ago. She discovered it after the cat had been missing for three days.

Ms. Zavala described all the conditions in the Affected Unit as causing her stress. It was frustrating during cold weather not to have a functioning heating system. It was frustrating not be able to cook on the stove, and she was also afraid because she smelled gas from the stove, and the smoke detectors were not working. It was frustrating that she would tell the former Landlord that there were problems, and they would not get fixed. And then on top of not being responsive for years, the Landlords (both former and current) wanted to raise the rent. When she challenged the rent increases, Mr. Sanchez told her that if she did not like it, she could go live somewhere else.

[REDACTED]

Ms. [REDACTED] is Ms. Zavala's mother. Ms. [REDACTED] moved in with Ms. Zavala in 2016 and moved out in 2022 for what she hopes will be a temporary period. Ms. [REDACTED] testified about the condition of the Affected Unit while she was living there. She was home most of the time taking care of [REDACTED] while Ms. Zavala worked.

Due to humidity from the water leaks, mold accumulated on the walls. She has seen droplets coming from the ceiling and dripping onto the carpet, which she believes has caused the odor in the carpet. The condition was worse when it rained; the walls would become wet in the kitchen

and in the living room. Ms. [REDACTED] discussed the water and mold issues with Ms. Zavala, and Ms. Zavala talked to the former Landlord, who sent Mr. [REDACTED] to look at the problem. Ms. [REDACTED] said that Mr. [REDACTED] “fixed it up,” but by the next day, the condition had returned.

With respect to the carpet, Ms. [REDACTED] described it as very old and in bad condition. In the living room, the carpet has a hole, and it smells bad. In the bedroom, it is also in visibly bad condition. Ms. [REDACTED] said that they were told not to wash the carpet, so all they could do was vacuum it, but that does not diminish the smell. Ms. Zavala informed the former Landlord about the condition of the carpet.

With respect to the shower leak, Mr. Sanchez repaired the hot water leak, but then the cold water started leaking. Ms. Zavala was told that the problem was caused by the faucets being very old, and that they do not make that kind of faucet anymore.

With respect to the stove, they were able to use only one burner. Even then, that burner was not working properly because they could smell gas when they cooked. Ms. Zavala reached out to the former Landlord and Mr. [REDACTED] about this issue.

Ms. [REDACTED] next testified as to the heat issue. She said that it got very cold in the Affected Unit in the winter, like “living in a freezer.” Mr. [REDACTED] told Ms. Zavala to turn on the thermostat, but she was never able to get it to work.

Ms. [REDACTED] stated that they suffered a lot because of the condition of the Affected Unit. It was very cold during the winter, water was leaking into the walls, and the stove did not work.

[REDACTED]

Mr. [REDACTED] has known Ms. Zavala for 15 years, and she is his girlfriend. He met Ms. Zavala while he was working for the former Landlord doing maintenance work on the Property. He knew the former Landlord his entire life, and he worked for her frequently. He performed basic maintenance tasks, such as basic electrical repairs or making repairs in the shower, and replacing the floors in bathrooms and kitchens. He was not an employee of the former Landlord as he had a full-time job, but he worked for her in his free time and on weekends. He stopped working for the former Landlord six years ago, when he started freelancing, and it was no longer cost effective to continue working for her. Mr. [REDACTED] currently works in the construction industry and is familiar with maintenance and repairs. He does not live in the Affected Unit, but he is there four or five days during the week and on weekends.

From his observation, it is difficult to live in the Affected Unit because there are a lot of issues, like mold, especially in the bathroom, and problems with the carpet and the stove. He feels that the most basic services were not provided.

Since Mr. [REDACTED] stopped working for the former Landlord, he has only repaired things in the Affected Unit with the owner’s approval. He worked on electrical items like replacing switches, but he said that the entire electrical system in the Affected Unit needed to be

repaired, so he could not do much with it. He also helped Ms. Zavala clean off the mold. He checked the stove and told her it could not be repaired, that she needed a new stove. He found that the steam from the bathroom was affecting the lights. He felt that everything he did was superficial because the things that really needed to be done were systemic. Mr. [REDACTED] testified that he fixed the various problems in the Affected Unit because even though Ms. Zavala would tell the former Landlord about things that needed repairs, the former Landlord took too long to address the issues, and these were urgent issues that affected everyday life. He has never been present when anyone came to make repairs.

Mr. [REDACTED] stated that approximately three weeks prior to the Hearing date, Ms. Zavala reported that the Landlord was starting to fix the electricity and the stove. Prior to that time, she would comment that she had sent letters requesting repairs, but no one ever came. Mr. [REDACTED] also stated that when he worked for the former Landlord, he told her about the condition of the Affected Unit, but she would instruct him to repair things superficially and that she would replace the items that needed replacing at a later date, but she never did.

#### Sergio Sanchez Morado

Mr. Sanchez began his testimony with the question as to why Ms. Zavala waited until his aunt passed away to complain about the condition of the Affected Unit. He has only owned the Property for about five months. All of the income from the Property was being put into a trust until April 2023, so he had no income to perform repairs until then. He acknowledged that there were problems with rental units on the entire Property, and said that he was fixing the problems.

Mr. Sanchez stated that Ms. Zavala has not been letting him enter the Affected Unit to make repairs. Mr. Sanchez said that when he went to the Affected Unit at the request of his aunt to repair the water leak, which was about five years ago, Ms. Zavala was rude and offended him. After that encounter, he did not want to go back, and he did not do so while his aunt was alive. He also said that when he knocked on Ms. Zavala's door in order to replace the smoke detector, she told him that he would have to do it right away because she was going out, which he took as offensive. Mr. Sanchez said that the MFH inspector told him that he is required to give 24 hours' advance written notice when he wants to make repairs. The MFH inspector told him that he would provide him with a form of notice to use, and he is waiting for that form.

Mr. Sanchez testified that when the MFH inspector was at the Affected Unit, he told Ms. Zavala to call PG&E to address the problems with the heater, and Ms. Zavala told the inspector that she does not use the heater. Mr. Sanchez said that he called PG&E. He said that the MFH inspector told Ms. Zavala to give Mr. Sanchez the report from PG&E or else he would not know what was wrong with the heater, but she never gave him the report. Mr. Sanchez said he could not fix things he did not know about.

Mr. Sanchez said that he and Ms. Zavala have a difficult history which began with a dispute approximately 13 years ago. He also said that Ms. Zavala has a lot of clutter in her garage area



and that his aunt told her to clean it out, but Ms. Zavala never did. He thinks the rats were caused by the clutter in Ms. Zavala's garage space. He initially put poison out to kill the rats, but the MFH inspector told him not to do that, but to use traps instead, so he placed traps, and there are no more rats.

Last year, Mr. Sanchez paid a pest control service to fumigate all of the rental units on the Property, but Ms. Zavala did not want to have the Affected Unit sprayed.

With respect to Ms. Zavala's cat, Mr. Sanchez said that he did not intentionally lock the cat in a storage locker. He said that the cat probably entered through his storage area which is connected to the storage areas for the tenants.

Concerning the stove, when he went into the Affected Unit to examine it, he concluded that Ms. Zavala needed a new stove. The stove that he purchased arrived late because the person he bought it from was ill and could not deliver it as promised. He said that he left a note for Ms. Zavala that the stove would not be delivered as planned. The stove was delivered the following week.

With respect to the electrical outlets, the electrician told him that there were wires crossed in two outlets, which caused all the problems. The electrician replaced all of the electrical outlets. Mr. Sanchez also had him install a new kitchen exhaust fan and new lights in the kitchen.

Mr. Sanchez said he believes it is his responsibility to maintain the Property because it ultimately is his property, and he needs to take care of it. He would like to be able to repair all of the problems on the Property all at once, but he does not have the money to do that.

With respect to the refrigerator, Mr. Sanchez said that he could see it was in bad shape and needed to be replaced. He ordered new refrigerators for all of the rental units on the Property, which are supposed to be delivered on October 19.

With respect to the carpet, Mr. Sanchez said that it could not be washed because the water would damage the wood floors underneath.

With respect to the mold, he said that it was Ms. Zavala's fault because she does not open the windows, so the humidity accumulates.

Concerning the rent increases, Mr. Sanchez told his tenants that the property taxes are very high and that he could not afford to pay them as well as the utilities without raising the rent. He admitted that the rent increases of \$300.00 in February and \$300.00 in March were not legal but said that he needed to impose the rent increases in order to pay for expenses for upkeep and maintenance.

Mr. Sanchez said that he was trying his best to treat his tenants well. He said that there are people interested in buying the Property for the land, meaning that they would tear down the rental units, and all of the tenants in the 10 rental units as well as Mr. Sanchez, who also lives on the Property, would be "kicked out." Even with the rent increases imposed on the rental units,

the rent is still below market. All of the other tenants agreed to the rent increase except Ms. Zavala. He said that reducing the rent would be out of the question because if he did that, he could not pay the property taxes.

Mr. Sanchez testified that his aunt passed away on December 11, 2021. She left the Property to him; however, there was a lawsuit challenging the will, and the judge ordered that all income from the Property be kept in an escrow account pending the outcome of the dispute. The person in charge of managing the Property at that time was Mr. [REDACTED]. Thus, Mr. Sanchez gave the Letter that Ms. Zavala sent him listing the issues with the Property to Mr. [REDACTED]. Mr. Sanchez stated that he was awarded title to the Property in April 2023. At that time, he received the money that was in the escrow account. Mr. Sanchez does not have any documentary evidence of exactly when title passed to him, and he said that Mr. [REDACTED] will not currently talk to him about the Property. Between December 12, 2021 and April 2023, Mr. Sanchez had conversations with Mr. [REDACTED] about the condition of the Property. In fact, Mr. [REDACTED] advised Mr. Sanchez to sell the Property because it had so many issues.

Mr. Sanchez stated that he did not see why he should be liable for issues that arose while his aunt was the owner of the Property.

[REDACTED]

Ms. [REDACTED] testified that whenever she needs repairs in her rental unit, Mr. Sanchez comes and performs the repairs. She has been living at the Property for 20 years, and has never had any problems with repairs. Prior to Mr. Sanchez becoming the owner of the Property, she never had any problem with things getting fixed. Sometimes there would be a delay while they waited for a part. The faucets in the bathroom were repaired by Mr. Sanchez five years ago. She had a problem with her refrigerator, and Mr. Sanchez lent her a small refrigerator while the repairs were pending. Ms. [REDACTED] has never been inside the Affected Unit.

[REDACTED]

Ms. [REDACTED] submitted an affidavit on October 1, 2023. Ms. [REDACTED] stated that she is a tenant at the Property. She also stated that “[i]n the past I understood that Mr. Sergio Sanchez was the manager...” She said that Mr. Sanchez promptly repaired items that needed repairs, such as replacing her refrigerator, fixing water leaks, and unclogging pipes. She never had any problems with Mr. Sanchez.

#### **IV. EVIDENCE**

The following documents were submitted prior to the Hearing and marked and admitted into evidence without objection:

### Hearing Officer Exhibits

Exhibit 1: Notice of Prehearing Meeting and Hearing Date, dated 8/18/2023, with Information Sheet, and proof of service

Exhibit 2: Multi Family Housing Inspection Reports, dated 8/18/2023, 7/12/2023, 5/31/2023; Fire Safety Notices dated 10/7/2022, 5/24/2021, 9/25/2020, 7/1/2019, 6/28/2017, 4/19/2016, 8/6/2012, 4/19/2011, two undated; Inspection Reports dated 8/20/2020 and 8/28/2020

Exhibit 3: Hearing Officer Prehearing Order, dated 9/6/2023

Exhibit 4: Notice of Hearing Officer Prehearing Order and Notice of Hearing, dated 9/8/2023

Exhibit 5: CSFRA Petition for Adjustment of Rent Hearing Information Sheet, sent 9/8/2023

### Petitioner's Exhibits

Exhibit 1: Petition A—Downward Rent Adjustment, Unlawful Rent, dated 6/28/2023, in English and Spanish

Exhibit 2: Tenant Petition A Unlawful Rent Workbook with Three Worksheets, in English and Spanish

Exhibit 3: Petition B—Failure to Maintain Habitable Premises or Decrease in Housing Services or Maintenance, dated 6/28/2023, in English and Spanish

Exhibit 4: Tenant Petition B Failure to Maintain Habitable Premises or Decrease in Housing Services or Maintenance Workbook with Three Worksheets, in English and Spanish

Exhibit 5: Notice of Submission and Proof of Service to Landlord, dated 6/28/2023

Exhibit 6: Representative Authorization Form, dated 7/19/2023

Exhibit 7: Legal Brief, dated 9/18/2023

Exhibit 8: Updated Worksheet 2 to Petition A, filed 9/18/2023

Exhibit 9: Updated Worksheet 2 to Petition B, filed 9/18/2023

Exhibit 10: Money Order Receipt with number ending in 4408, dated 2/24/2021, in the amount of \$500.00

Exhibit 11: Money Order Receipt with number ending in 4375, dated 2/24/2021, in the amount of \$500.00

Exhibit 12: Money Order Receipt with number ending in 4419, dated 2/24/2021, in the amount of \$475.00

Exhibit 13: Money Order Receipt with number ending in 4386, dated 2/24/2021, in the amount of \$500.00

Exhibit 14: Money Order Receipt with number ending in 4397, dated 2/24/2021, in the amount of \$500.00

Exhibit 15: Money Order Receipt with number ending in 7004, dated 4/23/2021, in the amount of \$500.00

Exhibit 16: Money Order Receipt with number ending in 6993, dated 4/23/2021, in the amount of \$500.00

Exhibit 17: Money Order Receipt with number ending in 6982, dated 4/23/2021, in the amount of \$500.00

Exhibit 18: Money Order Receipt with number ending in 8027, dated 5/12/2021, in the amount of \$475.00

Exhibit 19: Money Order Receipt with number ending in 9919, dated 7/01/2021, in the amount of \$400.00

Exhibit 20: Money Order Receipt with number ending in 9908, dated 7/01/2021, in the amount of \$400.00

Exhibit 21: Money Order Receipt with number ending in 9920, dated 7/1/2021, in the amount of \$500.00

Exhibit 22: Money Order Receipt with number ending in 0909, dated 7/13/2021, in the amount of \$500.00

Exhibit 23: Money Order Receipt with number ending in 2273, dated 8/27/2021, in the amount of \$400.00

Exhibit 24: Money Order Receipt with number ending in 2262, dated 8/27/2021, in the amount of \$500.00

Exhibit 25: Money Order Receipt with number ending in 4154, date illegible, in the amount of \$500.00, with notation "Renta 2021 sep."

Exhibit 26: Money Order Receipt with number ending in 4165, date illegible, in the amount of \$400.00, with the notation "Renta sept 2021"

Exhibit 27: Money Order Receipt with number ending in 4759, dated 10/17/2021, in the amount of \$400.00

Exhibit 28: Money Order Receipt with number ending in 4748, dated 10/17/2021, in the amount of \$500.00

Exhibit 29: Money Order Receipt with number ending in 5860, date illegible, in the amount of \$500.00, with notation "Renta novembre 2021"

Exhibit 30: Money Order Receipt with number ending in 5870, dated 11/16/2021, in the amount of \$400.00

Exhibit 31: Money Order Receipt with number ending in 7190, dated 12/14/2021, in the amount of \$500.00

Exhibit 32: Money Order Receipt with number ending in 7201, dated 12/14/2021, in the amount of \$400.00

Exhibit 33: Money Order Receipt with number ending in 7410, dated 12/29/2021, in the amount of \$400.00

Exhibit 34: Money Order Receipt with number ending in 7421, dated 12/29/2021, in the amount of \$500.00

Exhibit 35: Money Order Receipt with number ending in 6090, dated 1/29/2022, in the amount of \$500.00

Exhibit 36: Money Order Receipt with number ending in 6101, dated 1/29/2022, in the amount of \$400.00

Exhibit 37: Money Order Receipt with number ending in 7840, dated 3/1/2022, in the amount of \$500.00

Exhibit 38: Money Order Receipt with number ending in 7850, dated 3/1/2022, in the amount of \$400.00

Exhibit 39: Money Order Receipt with number ending in 9203, dated 3/31/2022, in the amount of \$500.00

Exhibit 40: Money Order Receipt with number ending in 9192, dated 3/31/2022, in the amount of \$400.00

Exhibit 41: Money Order Receipt with number ending in 9528, undated, in the amount of \$900.00, with notation "4 mayo – 2022"

Exhibit 42: Money Order Receipt with number ending in 0360, dated 6/30/2022, in the amount of \$400.00

Exhibit 43: Money Order Receipt with number ending in 0359, dated 6/30/2022, in the amount of \$500.00

Exhibit 44: Money Order Receipt with number ending in 2713, dated 8/1/2022, in the amount of \$400.00

Exhibit 45: Money Order Receipt with number ending in 2702, dated 8/1/2022, in the amount of \$500.00

Exhibit 46: Money Order Receipt with number ending in 4505, dated 3/1/2023, in the amount of \$500.00

Exhibit 47: Money Order Receipt with number ending in 4516, dated 3/1/2023, in the amount of \$400.00

Exhibit 48: Check receipt #102 to [REDACTED] dated 9/1/2022 for \$900.00

Exhibit 49: Check receipt #105 to [REDACTED] dated 9/1/2022 for \$900.00

Exhibit 50: Check receipt #107 to [REDACTED] dated 11/1/2022 for \$900.00

Exhibit 51: Check receipt #110 to illegible dated 12/1/2022 for \$900.00

Exhibit 52: Check receipt #113 to [REDACTED] dated 1/1/2023 for \$900.00

Exhibit 53: Check receipt #116 to [REDACTED] dated 2/1/2023 for \$900.00

Exhibit 54: Check receipt #118 to Sergio dated 4/1/2023 for \$900.00

Exhibit 55: Check receipt #121 to Sergio dated 5/1/2023 for \$900.00

Exhibit 56: Check receipt #122 to Sergio dated 6/1/2023 for \$900.00

Exhibit 57: Check receipt #124 to Sergio M. dated 7/1/2024 for \$900.00

Exhibit 58: Check receipt #125, illegible

Exhibit 59: Check receipt #126 to Sergio Morado dated 01/08/2023 for \$900.00

Exhibit 60: Original check #126 to Sergio Morado dated 01/08/2023 for \$900.00

Exhibit 61: Check receipt #127 to Sergio dated 01/08/2023 for \$900.00

Exhibit 62: Check receipt #128 to Sergio Sanchez dated 9/1/2023 for \$900.00

Exhibit 63: Written receipt for \$900.00 rent, dated 6/1/2022, signed by [REDACTED]  
[REDACTED], witnessed by [REDACTED], signed by [REDACTED]

Exhibit 64: Police Report dated 5/28/2014, Case No. 14002769

Exhibit 65: Police Report dated 2/26/2016, Case No. 16001197

Exhibit 66: Restraining Order dated 5/10/2016, Case No. 16CH006897

Exhibit 67: Documents re damages to car: 1/13/2017 invoice number 683820 from Toyota Sunnyvale; 3/18/2017 letter from Allstate Insurance Co.; 6/26/2017 letter from AAA Insurance Co.

Exhibit 68: Letter from Petitioner to Respondent dated 5/5/2023 re habitability concerns

Exhibit 69: PG&E Service Report for the Affected Unit, dated 7/19/23

Exhibit 70: Two photos of ceiling mold

Exhibit 71: Three photos of wall mold

Exhibit 72: Two photos of burners on stovetop

Exhibit 73: Photo of torn carpet

Exhibit 74: Video of altercation dated 2/23/2016

Exhibit 75: Video of cat locked in storage locker

Exhibit 76: Document titled "Petitioner's Documents Submitted on 9/18/23"

#### Respondent's Exhibits

Exhibit 1: Witness List

The following documents were submitted post-Hearing and marked and admitted into evidence without objection:

#### Hearing Officer's Exhibits

Exhibit 6: Post-Hearing Order, dated 9/29/2023

Exhibit 7: Notice of Hearing Officer Post-Hearing Order, dated 10/2/2023

#### Petitioner's Exhibits

Exhibit 77: Response to Affidavit of [REDACTED], dated 10/13/2023

#### Respondent's Exhibits

Exhibit 2: Affidavit of [REDACTED], dated 10/1/2023, in Spanish and English

### **V. ISSUES PRESENTED**

1. Whether there was an unlawful rent increase in April 2021.
2. Whether unlawful rent was demanded in February and March 2023.
3. Whether Respondent failed to maintain the premises in a habitable condition, more particularly, whether the following conditions existed:
  - a. mold
  - b. worn and damaged carpet with a hole in it
  - c. nonfunctioning electrical outlets
  - d. nonfunctioning stovetop burners and kitchen exhaust fan
  - e. dilapidated refrigerator

- f. nonfunctioning smoke detectors
- g. leaking shower
- h. presence of rats
- i. absence of heat
- j. nonfunctioning kitchen lights.

## **VI. FINDINGS OF FACT SUPPORTING THIS DECISION**

1. Petitioner moved into the Affected Unit in 2007. At that time, her landlord was [REDACTED] (the “former Landlord”), who was Respondent’s aunt. The Affected Unit consists of four rooms: a living room, bedroom, kitchen and bathroom. It is on a property with 10 other rental units (the “Property”).
2. There is no written Lease governing the Affected Unit.
3. The Rent for the Affected Unit as of October 19, 2015 was \$825.00 per month. Sometime in 2017, the Rent was increased to \$850.00 per month. Petitioner is not contesting that rent increase.
4. Sometime in April 2021, Petitioner began paying a rent increase of \$50.00, to \$900.00 per month. The notice of increase was given verbally sometime in March 2021 by [REDACTED], whom Petitioner understood to be the property manager (“Mr. [REDACTED]”).
5. The former Landlord died on December 11, 2021, and Petitioner was informed in January 2022 that Respondent would be the new owner of the Property. The will was contested, and the income from the Property was held in a trust until approximately April 2023.
6. Mr. [REDACTED] served as property manager of the Property while the former Landlord owned it, and he continued to do so until approximately April 2023.
7. In January 2023, Mr. [REDACTED] notified Petitioner verbally that the rent would increase by \$300.00 per month, to \$1,200.00 per month, effective February 1, 2023. Petitioner refused to pay this increase.
8. Also in January 2023, Mr. [REDACTED] notified Petitioner verbally that the rent would increase by an additional \$300.00 per month, to \$1,500.00 per month, effective March 1, 2023. Petitioner refused to pay this increase.
9. Evidence was presented of visible mold on the walls and ceilings of the Affected Unit. There was testimony that the mold increases when it rains. The former Landlord addressed the mold by painting over it in 2010. Petitioner notified Respondent about the mold in writing on May 5, 2023.
10. The carpet was worn when Petitioner moved into the Affected Unit, and photos were presented showing a sizeable hole in it. There was testimony that a bad odor emanates from the carpet. Petitioner notified Respondent about the carpet in writing on May 5, 2023.



11. Commencing sometime in 2016, there was only one functional electrical outlet in the entire Affected Unit, forcing Petitioner to run extension cords throughout the Affected Unit in order to power the appliances and the lamps she bought to use in place of nonfunctioning overhead lighting. Petitioner informed the prior Landlord of the issue, and she sent Mr. [REDACTED] to repair the electrical problems, but he did not succeed in doing so. Petitioner sent notification in writing to Respondent on May 5, 2023. The electrical wiring was repaired on September 15, 2023.
12. In approximately 2016, all but one of the stovetop burners ceased to function, and the exhaust fan for the stove stopped working. Petitioner notified the former Landlord and Mr. [REDACTED] verbally about the stove, but it was not repaired. Petitioner notified Respondent of the problems in writing on May 5, 2023. The exhaust fan was replaced on September 9, 2023, and a new stove was installed on September 27, 2023.
13. The refrigerator has been in the Affected Unit since Petitioner moved in. It has been in a dilapidated condition for approximately eight years, and it periodically freezes food, which then has to be thrown away. Petitioner verbally informed the prior landlord when the problem first began, but it was not repaired, and Petitioner informed the Respondent in writing on May 5, 2023.
14. The smoke and carbon monoxide detectors in the Affected Unit did not work for an undetermined number of years. Petitioner notified Respondent of this issue in writing on May 5, 2023. They were replaced on or about July 11, 2023. They now go off randomly without any cause.
15. The shower began leaking hot water approximately eight years ago and was repaired approximately five years ago by Respondent, who helped his aunt with maintenance at the Property. Thereafter, the shower began leaking cold water and continues to do so.
16. A rat chewed cables inside Petitioner's car engine on or around January 10, 2017 while the car was parked in a common area on the Property. Petitioner informed the former Landlord verbally sometime in 2017, but she did not inform Respondent of the rat problem. Respondent set traps for the rats on or about July 11, 2023.
17. The overhead lights in the kitchen stopped working approximately eight years ago, and Petitioner verbally notified the former Landlord at that time. The former Landlord sent Mr. [REDACTED] to repair the lights, but he did not succeed in doing so. The lights remained nonfunctional until the electrical wiring was repaired on September 15, 2023.
18. The heater has not worked since Petitioner moved into the Affected Unit. Petitioner informed Mr. [REDACTED] at some point between 2012 and 2016, and he installed a new heater three or four years ago, but the thermostat does not work, so Petitioner is not able to turn the heater on. Because it was so cold this past winter, Petitioner purchased two space heaters.
19. A Multi-Family Housing ("MFH") Program Inspection of the Property was performed on May 31, 2023, with follow-up inspections on July 12, 2023 and August 18, 2023. In the Inspection Reports for each date of inspection, the inspector directs Respondent to repair a loose electrical outlet in the kitchen, to replace the kitchen vent exhaust hood,

to locate all dead electrical outlets and replace them with AFCI/GFCI outlets, to eliminate use of extension cords throughout the Affected Unit, and to install GFCI outlets in the kitchen and bathroom. The July 12 Inspection Report and the May 31 Inspection Report indicate that the Affected Unit has no functional smoke or carbon monoxide detectors and orders their replacement within 48 hours. The May 31 Inspection Report states that “[t]here are obvious signs of a rat infestation in the rear building in the utility room, have a pest inspection and treat all buildings.”

20. On July 19, 2023, at the request of Respondent, PG&E conducted an inspection of the range, oven and heater in the Affected Unit, and produced a Service Report which stated that a new stove was needed and that the heating unit required cleaning and a new thermostat. Petitioner did not provide the PG&E Service Report to Respondent.
21. Petitioner and Respondent have had a tense relationship in the past which has affected behavior by both parties towards each other.
22. There was no credible evidence that Respondent intentionally trapped Petitioner’s cat in a storage locker.
23. There was no credible evidence that Petitioner refused to allow Respondent entry to make repairs. Respondent admitted that he knew that he needed to give 24 hours written notice prior to entering to make repairs but had not done so.
24. In addition to having Mr. [REDACTED] and Respondent make repairs to the Affected Unit, the former Landlord also hired [REDACTED] to perform maintenance. Mr. [REDACTED] testified that he spoke to the former Landlord about the significant repairs that were needed in the Affected Unit, but she told him to make only superficial repairs and that she would replace the items that needed replacing at a later date; however, she never did so.
25. Respondent admitted that all of the rental units on the Property need repairs and stated that he does not have the funds to make all the needed repairs. He admitted that the rent increases in 2023, which were imposed on all of the rental units on the Property, were unlawful, but that they were necessary in order for him to afford to maintain the Property and to pay the property taxes. He said that he explained this to the Tenants, and Petitioner was the only one who refused to pay the increases.
26. Respondent stated that he has ordered new refrigerators for all of the rental units on the Property which will be delivered October 19. He said that last year, he paid a pest control service to fumigate all of the rental units but that Petitioner refused to have her unit sprayed.
27. Respondent does not have any documentary evidence of when title to the Property passed to him. The Santa Clara County Assessor’s office documents title as transferring by deed on January 13, 2023.
28. Respondent said that Mr. [REDACTED] managed the Property until April 2023. He said that he gave Petitioner’s May 5, 2023 letter listing all the habitability issues in the Affected Unit to Mr. [REDACTED] to deal with. Between the time of his aunt’s death on December 11, 2021 and April 2023, Respondent had conversations with Mr. [REDACTED] about the

condition of the Property, and Mr. [REDACTED] advised Respondent to sell the Property because there were so many problems with it that it would not be economically feasible to repair everything.

29. Respondent's witness, Ms. [REDACTED], in her affidavit, stated that in the past she believed that Respondent was the manager of the Property.

## **VII. DISCUSSION**

### Unlawful Rent Increases

Pursuant to CSFRA Section 1710(d), a Tenant may file a Petition for a downward rent adjustment if the Tenant believes that a Landlord has demanded or retained rent in excess of the lawful amount set forth in the CSFRA. The Tenant bears the burden of proof by a preponderance of the evidence. See CSFRA Section 1711(h) and Regulations Ch. 5, Section (G)(2) and (3).

Petitioner has claimed that there were three unlawful rent increases, one in April 2021, one in February 2023, and one in March 2023.

The first rent increase at issue is the increase on or about April 1, 2021, from \$850.00 to \$900.00, a total increase of 5.9 percent.<sup>3</sup>

Under Section 1706(a) of the CSFRA, a Landlord may not charge as rent an amount greater than the sum of the Base Rent and any lawful rent increases implemented pursuant to the CSFRA. The Base Rent, as defined in Section 1702(b)(1), for tenancies commencing prior to October 19, 2015, is the rent in effect on October 19, 2015. Pursuant to Sections 1706(b) and 1707(a), the Base Rent may be increased only by the amount of the Annual General Adjustment ("AGA"), which is announced by the Rental Housing Committee each year. Once the initial Base Rent is established, a Landlord may increase the rent by no more than the AGA every 12 months. Section 1707(c) requires that notice of a rent increase be in writing, be given at least 30 days in advance, and comply with state law, which would include in particular California Civil Code Section 827.

The April 2021 rent increase was unlawful for two reasons. First, at 5.9 percent, it was above the amount of the lawful AGA, which for the time period of September 1, 2020 through August 31, 2021 was 2.9 percent. Secondly, notice of the rent increase was verbal rather than in writing. Thus, that rent increase was invalid, and the lawful Base Rent is \$850.00. Any future rent increase must start with the \$850.00 Base Rent.

Although Respondent was not the Landlord at the time of the initial unlawful rent increase in 2021, he still bears the responsibility for the unlawful rent increase. Under CSFRA Section 1702(j), a Landlord is defined as "[a]n owner, lessor, sublessor or any other person entitled to receive Rent for the use and occupancy of any Rental Unit, or [a]... successor of any of the

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<sup>3</sup> The rent for the Affected Unit was initially \$800.00 and was increased to \$825.00 in 2014 and to \$850.00 in 2017. Petitioner is not challenging the rent increases from \$800.00 to \$850.00.

foregoing.” Thus, the CSFRA imposes its provisions on successor landlords. As a successor of the former Landlord who imposed the unlawful rent increase, Respondent is liable for that Landlord’s actions. This conclusion is supported by Baychester Shopping Ctr., Inc. v. San Francisco Residential Rent Stabilization & Arbitration Bd., 165 Cal.App.4<sup>th</sup> 1000, 1005-1006 (2008), where the appellate court held that a successor landlord was liable for its predecessor’s unlawful rent increases because the regulatory scheme of the San Francisco rent ordinance imposed such liability through its definition of “landlord,” which included successor landlords. The court held that the successor landlord was not liable under a contractual relationship with the prior landlord, but instead the successor landlord’s liability arose by operation of law, i.e., from the obligation imposed by the San Francisco rent ordinance to demand only lawful rent increases. The CSFRA imposes the same obligation upon successor landlords, and thus Respondent is liable thereunder for unlawful rent increases even though he had no contractual relationship with the former Landlord.

The second and third rent increases at issue for the Affected Unit were the verbal rent increases effective February 1, 2023 and March 1, 2023. Each of those increases was for \$300.00. As of February 1, 2023, the lawful rent was \$850.00, since the earlier rent increase to \$900.00 in 2021 was unlawful. An increase of \$300.00 from a Base Rent of \$850.00 is 35.3 percent.

The rent increase on February 1, 2023 was unlawful for three reasons. First, at 35.3 percent, it well exceeded the amount of the lawful AGA, which from September 1, 2022 through August 31, 2023 was 5.0 percent. Secondly, in calculating the rent increase, Landlord used \$900.00 as the Base Rent, i.e., the starting point for making rent increases, when the lawful Base Rent was \$850.00. Thirdly, notice of the rent increase was verbal rather than in writing. Thus, the February 1, 2023 rent increase was invalid, and Petitioner was within her rights under the CSFRA not to pay it.

Because the February 1, 2023 rent increase was invalid, all subsequent rent increases based on the unlawful rent would be invalid. Thus, the March 1, 2023 rent increase of \$300.00 was invalid, and Petitioner was also within her rights under the CSFRA not to pay that rent increase. Additionally, it should be noted that under CSFRA Section 1707(b), a landlord may not increase the rent more than once in a 12-month period. Two rent increases, both a lofty amount above the lawful AGA, within a 12-month period represent an egregious violation of the CSFRA. Indeed, Respondent even admitted that the rent increases in 2023 were unlawful under the CSFRA.

The Base Rent for the Affected Unit is rolled back to \$850.00 per month. Any future rent increase must start with this Base Rent and must be within the lawful AGA as set forth in CSFRA Sections 1706(a) and (b) and 1707(a). Additionally, any future rent increase must be in writing and must comply with the provisions of CSFRA Section 1707(c). It should be noted that CSFRA Regulations, Chapter 7, Section (B)(1) requires that any notice requesting an increase in rent must be in substantially the same form as the form of notice published by the Rental Housing Committee.

### Damages for Unlawful Rent Increases

As damages for the unlawful rent increase in 2021, from \$850 to \$900, Petitioner is entitled to the difference between what she paid in rent and the actual lawful rent (see CSFRA Sections 1702(i) and 1714(a)). The table below sets out rent payments made by Petitioner starting in April 2021 through September 2023:

Date	Rent Paid to Landlord	Lawful Rent	Payment in Excess of Lawful Rent
9/1/2023	\$900.00	\$850.00	\$50.00
8/1/2023	\$900.00	\$850.00	\$50.00
7/1/2023	\$900.00	\$850.00	\$50.00
6/1/2023	\$900.00	\$850.00	\$50.00
5/1/2023	\$900.00	\$850.00	\$50.00
4/1/2023	\$900.00	\$850.00	\$50.00
3/1/2023	\$900.00	\$850.00	\$50.00
2/1/2023	\$900.00	\$850.00	\$50.00
1/1/2023	\$900.00	\$850.00	\$50.00
12/1/2022	\$900.00	\$850.00	\$50.00
11/1/2022	\$900.00	\$850.00	\$50.00
9/1/2022 (for 10/2022)	\$900.00	\$850.00	\$50.00
9/1/2022	\$900.00	\$850.00	\$50.00
8/1/2022	\$900.00	\$850.00	\$50.00
6/30/2022 (for 7/2022)	\$900.00	\$850.00	\$50.00
6/1/2022	\$900.00	\$850.00	\$50.00
5/4/2022	\$900.00	\$850.00	\$50.00
3/31/2022 (for 4/2022)	\$900.00	\$850.00	\$50.00
3/1/2022	\$900.00	\$850.00	\$50.00
1/29/2022 (for 2/2022)	\$900.00	\$850.00	\$50.00
12/29/2021 (for 1/2022)	\$900.00	\$850.00	\$50.00
12/14/2021	\$900.00	\$850.00	\$50.00
11/16/2021	\$900.00	\$850.00	\$50.00
10/17/2021	\$900.00	\$850.00	\$50.00
10/3/2021 (for 9/2021)	\$900.00	\$850.00	\$50.00
8/27/2021	\$900.00	\$850.00	\$50.00
7/1/2021	\$900.00	\$850.00	\$50.00

7/1/2021 (for 6/2021)	\$900.00	\$850.00	\$50.00
5/12/2021	\$475.00	\$850.00	(\$375.00)
4/23/2021	\$1,500.00	\$850.00	\$650.00
Total	\$27,175.00	\$25,500.00	\$1,675.00

In the Revised Worksheet 2 to Petition A and in her Legal Brief (Petitioner's Exhibits 8 and 7), Petitioner explains that, as of April 2021, she owed rent for the period of January through March 2021 in the amount of \$75.00, and for the year 2020, she owed \$100.00. That amount of \$175.00 was intended to be offset by the overpayment in April 2021 shown in the table above. Thus, the \$175.00 will be deducted from the amount owed in damages by Respondent:  $\$1,675.00 - \$175.00 = \$1,500.00$ . Total damages for payment of unlawful rent due to rent overcharges is \$1,500.00. As discussed below, Respondent will not be allowed to raise rent on the Affected Unit until this amount and other amounts awarded by this Decision are refunded to Petitioner.

One additional, broader issue remains with respect to unlawful rent increases. The question is whether Respondent's non-compliance with the CSFRA as to the remaining Rental Units on the Property preclude him from implementing rent increases on the Affected Unit. Respondent admitted that in 2023, he increased all of the Tenants' rent by an amount well over the amount permitted by the CSFRA.

Section 1707(f) states unequivocally that "[n]o Rent increase shall be effective if the Landlord (1) has failed to substantially comply with all provisions of this Article and all rules and regulations promulgated by the Committee." CSFRA Regulations Ch.12, Section (B) specifically states that charging unlawful rents without refunding the unlawfully demanded amounts "means a Landlord has not substantially complied with the CSFRA and, therefore, cannot raise rents and/or file a petition for upward adjustment of rent." The evidence has shown that in addition to charging unlawful rents to Petitioner, Respondent has also charged unlawful rents to the remaining Tenants on the Property. This means that Respondent has failed to substantially comply with the CSFRA and, therefore, he may not raise rents on the Affected Unit until the unlawful rents imposed upon all of the other Tenants are refunded.

It should be noted that while Landlords may not raise rents above the AGA simply because they feel that they need to, a Landlord may file a petition for an upward adjustment of rent above the amount allowed by the AGA in order to ensure a fair rate of return on their investment. (See, CSFRA Section 1710(a)). However, as noted above, in order to file such a petition, a Landlord must be in substantial compliance with the provisions of the CSFRA.

#### Failure to Maintain Habitable Premises

Under CSFRA Section 1710(b)(1), "[f]ailure to maintain a Rental Unit in compliance with governing health and safety and building codes, including but not limited to Civil Code Sections

1941.1 et seq. and Health and Safety Code Sections 17920.3 and 17920.10, constitutes an increase in Rent. A Tenant may file a Petition with the Committee to adjust the Rent downward based on a loss in rental value attributable to the Landlord's failure to maintain the Rental Unit in habitable condition.”

Additionally, 1710(b)(2) states that “[a] Tenant Petition filed pursuant to this Subsection must specify the conditions alleged to constitute the failure to maintain the Rental Unit in habitable condition and demonstrate that the Landlord was provided with reasonable notice and opportunity to correct the conditions that form the basis for the Petition.”

In bringing a Petition under Section 1710(b), the Tenant bears the burden of proof by a preponderance of the evidence. See CSFRA Section 1711(h) and Regulations Ch. 5, Section (G)(2) and (3).

California Civil Code Section 1941 provides that a Landlord of a “building intended for the occupation of human beings must...put it into a condition fit for such occupation, and repair all subsequent dilapidations thereof, which render it untenable...”

Under California Civil Code Section 1941.1(a), “[a] dwelling shall be deemed untenable for purposes of Section 1941 if it substantially lacks any of the following affirmative standard characteristics or is a residential unit described in Section 17920.3... of the Health and Safety Code: (1) Effective waterproofing and weather protection of roof and exterior walls...; (2) Plumbing facilities...maintained in good working order;...(4) Heating facilities...maintained in good working order; (5) Electrical lighting...maintained in good working order; (6) Buildings, grounds, and appurtenances kept in every part clean, sanitary and free from all accumulations of...rodents....”

Under California Health and Safety Code Section 17920.3, “[a]ny building or portion thereof including any dwelling unit...or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(a) Inadequate sanitation shall include, but not be limited to, the following:...

(6) Lack of adequate heating...

(10) Lack of required electrical lighting.

(11) Dampness of habitable rooms.

(12) Infestation of insects, vermin, or rodents as determined by a health officer or...a code enforcement officer...

(14) General dilapidation or improper maintenance...

(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.

(e) All plumbing, except plumbing that conformed with all applicable laws in effect at the time of installation and has been maintained in good condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly....

(g) Faulty weather protection, which shall include, but not be limited to, the following:...(2) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors....”

Petitioner has alleged the following eleven habitability issues: mold; old and damaged carpet with a hole in it; nonfunctioning electrical outlets; nonfunctioning burners on the stovetop and nonfunctioning exhaust fan; dilapidated and erratically functioning refrigerator; nonfunctioning smoke and carbon monoxide detectors; leaking shower; rats in the common areas which ate through cables in her car; nonfunctioning kitchen lights; and a nonfunctioning heater.

The facts presented at the Hearing reveal a rental unit that has suffered from years of neglect. Credible testimony established that the former Landlord made stop-gap repairs, but did not address the serious habitability problems in the Affected Unit. There is no indication that she hired anyone qualified to address serious issues such as electrical problems and lack of heat but instead used handymen to address all problems regardless of their seriousness or technical challenges. The number of habitability issues and their duration as well as the minimalist attitude toward repairs cause the Affected Unit to fall within the category of “general dilapidation or improper maintenance” set forth in California Health and Safety Code Section 17920.3(a)(14).

Additionally, several of the specific habitability issues fall squarely within other provisions of Section 17920.3 as well as California Civil Code Section 1941.1. There was testimony that the mold problem was caused by the leaking hot water and was worse when it rained. This brings the mold issue within Section 17920.3(a)(11), which concerns dampness within the Affected Unit, as well as within the code sections that deal with faulty weather protection, since the mold increased during rainy weather, indicating that there is a problem with waterproofing. Faulty weather protection is addressed in Civil Code Section 1941.1(a)(1) and Health and Safety Code Section 17920.3(g).

The electrical problems—the faulty wiring which led to inadequate lighting throughout the Affected Unit and which affected the appliances --are covered by Civil Code Section 1941.1(a)(5) and Health and Safety Code Sections 17920.3(a)(10) and (d). The leaking shower falls within Section 1941.1(a)(2) and Section 17920.3(e), which deal with poorly maintained plumbing facilities. The fact that the parts for the shower are no longer available does not excuse Respondent from repairing it. The rats in the common areas fall within Section 1941.1(a)(6) and Section 17920.3(a)(12). Finally, the lack of heat is covered by Section 1941.1(a)(4) and Section 17920.3(a)(6).



Additionally, the MFH Inspection Reports cite more code violations. A loose electrical outlet violates California Electrical Code Sections 404.9 and 406.6. The use of extension cords as a substitute for permanent wiring violates California Electrical Code Sections 400.12 and 240.5. The faulty electrical wiring constitutes a violation of the California Fire Code Section 603.2.1. The lack of GFCI outlets in the kitchen and bathroom violate California Electrical Code Section 210.8(a). The nonfunctioning kitchen exhaust vent violates International Property Maintenance Code Section 603. The lack of functional smoke and carbon monoxide detectors violates International Property Maintenance Code Section 704 and California Building Code Sections 915 and 420.5. The rat infestation in the rear building utility room violates the International Property Maintenance Code Section 309.

Thus, it is apparent that the facts of this case present multiple code violations sufficient to prove an unlawful increase in rent pursuant to CSFRA Section 1710(b)(1).

Respondent argues that he should not be liable for the habitability issues in the Affected Unit because they were the responsibility of the former Landlord and should have been repaired by her. While Respondent finds himself in the unfortunate position of having inherited a Property that has by his admission been neglected for many years, nowhere in the CSFRA is a Landlord excused from maintaining their property because the uninhabitable conditions existed prior to their acquisition of the property. As discussed earlier, Section 1702(j) of the CSFRA defines a Landlord as “an owner, lessor, sublessor or any other person entitled to receive Rent for the use and occupancy of any Rental Unit, or...successor of any of the foregoing.” The CSFRA thus takes a broad scope in its definition of Landlord, which includes an owner as well as their successors. The CSFRA is obviously designed to cover situations in which property changes hands, as in this case, and one cannot absolve oneself of responsibility under the CSFRA by claiming to be the successor of the former owner. Section 1710(b)(2) provides very simply that a Tenant may bring a Petition thereunder for “the Landlord’s failure to maintain the Rental Unit in habitable condition.” There is nothing in the plain language of the CSFRA that would absolve a Landlord because the lack of habitability began prior to the Landlord’s acquisition of the Property. Indeed, this would run contrary to the purpose of the CSFRA, which is, among other things, to “promote healthy housing” (Section 1700). Excusing a Landlord from responsibility for maintaining habitability because he or she acquired a building with uninhabitable conditions would condone the perpetuation of substandard housing.

Caselaw also provides that the fact that the unsafe or unhealthy conditions existed prior to acquisition of the property does not absolve a successor Landlord of responsibility for the repairs. (See *Erlach v. Sierra Asset Servicing, LLC*, 226 Cal.App.4<sup>th</sup> 1281, 1295 (2014) (“new owners of rental property are required to address outstanding code violations even if they were caused by the previous owner of the property”); *Knight v. Halltshammar*, 29 Cal.3d 46, 57, 59 (1981)).

The fact that Respondent inherited the Property rather than purchasing it does, however, affect the element of notice, which Petitioner is required to prove under CSFRA Section 1710(b)(2). A

purchaser of property would normally do due diligence prior to purchase and thus would discover habitability issues. Someone who inherits property would not necessarily have knowledge of the condition of the property. Thus, in this case, it is necessary to derive from the facts presented just how much Respondent knew about the condition of the Affected Unit and when he had that knowledge.

Respondent testified that it was his belief that he did not own the Property until April or May 2023 but that he had no documents to substantiate his claim. The Hearing Officer takes judicial notice of the records of the Santa Clara County Assessor with respect to the transfer of the Property. The Assessor's website<sup>4</sup> indicates that there was a change of trustee on December 11, 2021, which corresponds with Respondent's testimony that his aunt, the former Landlord, died on that date. The website shows a second change in ownership, a conveyance by deed, on January 13, 2023. It is reasonable to conclude that the title was conveyed to Respondent on that date, not in April or May 2023 as he testified. Respondent also testified that Mr. [REDACTED] managed the Property from December 11, 2021 through April 2023, implying that Respondent was not involved in the operations of the Property. However, there were contradictions with respect to this testimony. Respondent himself testified that he paid for pest treatment of the Property last year, meaning in 2022. This indicates that he was involved in maintaining the Property well before April 2023. Additionally, Respondent testified that he spoke to the Tenants about his rationale for the large rent increases in 2023, which indicates that he was the one who decided that the increases were necessary. Notice of the increases was given in January 2023, proving that Respondent was involved in the operations of the Property at that time. Respondent also testified that he discussed the condition of the Property with Mr. [REDACTED] during the period of December 12, 2021 through April 2023, and that Mr. [REDACTED] told him to sell the Property rather than incur the costs to repair its many problems. Respondent's witness, [REDACTED], stated that "[i]n the past, I understood that Mr. Sanchez was the manager," the implication being that Respondent was involved in managing the Property prior to his ownership of it. With respect to the Affected Unit, Respondent testified that he had entered it five years prior to his ownership to repair the leaking hot water in the shower.

Given that Respondent testified that he discussed the condition of the Property with Mr. [REDACTED] between December 12, 2021 and April 2023, it is reasonable to conclude that Mr. [REDACTED]'s knowledge of the repairs needed in the Affected Unit were passed on to Respondent as early as January 2022. Mr. [REDACTED] had actual notice of the mold, the electrical problems, the lack of heat, and the stove and fan not working because he was sent to repair these problems, which he was unable to do.

Additionally, Respondent had actual knowledge of anything that would have been visible to him when he entered the Affected Unit five years ago. This would mean the plumbing problems, which he had been sent to repair, the carpet, which was visible to anyone entering the Affected

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<sup>4</sup> <https://www.sccassessor.org/online-services/property-search/real-property>

Unit, the fact that there were extension cords everywhere, the fact that there was no overhead lighting, and the general dilapidation and lack of maintenance in the Affected Unit.

With respect to the remaining issues, Respondent had notice as of May 5, 2023, when Petitioner sent an email and letter discussing the habitability problems. This would include the refrigerator and the smoke detectors.

The only issue that Respondent did not have notice of from Petitioner were the rats in the common areas, which were flagged in the MFH Inspection Report of May 31, 2023.

Thus, Respondent had notice of the following issues as early as five years ago: plumbing, electrical, carpet, general dilapidation and lack of maintenance. Respondent had notice of the following issues as early as January 2022: mold, stove and fan, and lack of heat. Respondent had notice as of May 5, 2023: refrigerator, smoke detectors. Respondent had notice as of May 31, 2023: rats.

It should be noted that while Respondent had ample notice as to all of the habitability issues, and he had written notice directly from Petitioner as of May 5, 2023, he did not address any of the issues until the MFH inspections occurred, and even then, it took three inspections—on May 31, July 12, and August 18, 2023—to motivate him to begin correcting the more significant problems. The earliest corrections—replacing the smoke detectors and laying traps for the rats—were completed on or about July 11, 2023, three other issues were addressed in September, and, as of the Hearing date, there were still five outstanding issues—the heat, the mold, the carpet, the plumbing, and the refrigerator. Also, the smoke detectors need an adjustment because they go off at random without being triggered by anything.

#### Damages for Habitability Claims

Damages for unsafe or unhealthy conditions are generally determined in one of two ways: calculating the difference between the fair rental value of the Affected Unit if it had been as warranted and the fair rental value of the Affected Unit as it is currently with the existing conditions, or by a percentage reduction in use, which would involve reducing Petitioner's rental obligation by a percentage corresponding to the relative reduction of use of the Affected Unit caused by the unsafe or unhealthy conditions. (*See, Green v. Superior Court*, 10 Cal.3d 616, 638, 639 fn. 24 (1974).) In this particular situation, there has been no expert testimony as to the fair rental value with and without the habitability issues, making the fair rental value methodology difficult to apply. This leaves the percentage reduction in use method.

The most serious habitability violations are the electrical problems, which were cited by the MFH inspectors as a safety issue, and the lack of heat, which is a health and welfare issue. The electrical problems were remedied as of September 15, 2023. The lack of heat has not been addressed. While Petitioner did not give the PG&E report to Respondent, Respondent testified that he was the one who set up the appointment with PG&E, so it would not have been unreasonable for him to follow up with them or Petitioner to find out what would be necessary

to remedy the problem. The electrical problems affected the entire Affected Unit; all of the appliances had to be plugged into extension cords which went to a single outlet, and that single outlet also provided the power for the lamps that Petitioner used since the overhead lighting did not work. Because of the seriousness of this condition and its widespread impact, a 45% reduction in rent would be reasonable. This represents a 10% reduction for each room, plus an additional 5% for the overall impact on the Affected Unit. With respect to the heat, also a serious problem but which only arises during part of the year, a 25% reduction would be appropriate. This represents a 6.25% reduction per room, just compensation for the discomfort caused by lack of heat, the space heaters that Petitioner had to purchase, and the additional cost of electricity used by the space heaters.

Use of the kitchen in the Affected Unit was quite diminished since the stovetop did not work, the exhaust fan did not work, the refrigerator did not function as it was supposed to, the overhead lights did not work, and there was a dangerous electrical condition which affected the kitchen as well as the entire Affected Unit. The fan was replaced on September 9, 2023, and the stove was replaced on September 27, 2023, but the refrigerator had not been replaced as of the date of the Hearing. There are four rooms in the Affected Unit; thus the kitchen is one-quarter of the space. Since the kitchen was effectively non-functional, it should be worth a reduction of 25% of the total rent; however, since the electrical problems have already been factored into the damages calculation, it would be reasonable to reduce the rent by 15% of the total for loss of use of the stove, exhaust fan and refrigerator. This can be broken down to 8% for the stove, 1% for the fan, and 6% for the refrigerator.

The mold potentially creates a health condition and also is evidence of general dilapidation and lack of maintenance, which is worth a 5% reduction in the total rent. This represents the value of Petitioner's frequent labor to clean off the walls and ceiling. The carpet and plumbing are also evidence of general dilapidation and lack of maintenance and are worth a 2% reduction as a token of the nuisance and discomfort that they create. The smoke detectors are a safety issue, which are worth 2% of the value of the total rent to compensate for the unease that not having smoke detectors caused Petitioner. The smoke detectors were replaced on or about July 11, 2023. The rats are a health and safety issue, but given that they were limited to the common area and not inside the Affected Unit, are worth a reduction of 1%. The rats were dealt with on or about July 11, 2023.

Before determining the exact amount of the rent reduction, it is necessary to discuss how far back in time one can go in imposing liability on the part of Respondent. While Baychester, 165 Cal.App.4<sup>th</sup> 1000, dictates that for the purposes of refunding unlawfully collected rent, one can go back to the prior landlord's tenure, there is no authority to support doing so within the context of habitability claims. Caselaw allows tenants to defend against unlawful detainer actions based on a prior landlord's failure to maintain rental units; however, there is no authority for awarding damages for the prior landlord's failure to maintain a rental unit when a

tenant files a claim against a successor landlord based on habitability. *See, Knight v. Halltshammar*, 29 Cal.3d 46 at 56-57.

It has been established that title to the Property was transferred to Respondent on January 13, 2023; thus, liability can be calculated from that date but no earlier.

Respondent had constructive notice of the electrical issues approximately five years ago, and he repaired them as of September 15, 2023. From January 13, 2023 through September 15, 2023 is 8.07 months. A 45% reduction from \$900.00 monthly rent is \$405.00. Multiplying that by 8.07 months is \$3,268.35.

Respondent had constructive notice of the heat issues as of January 2022, and he had not yet repaired them as of the Hearing date. From January 13, 2023 through the date of the Hearing, September 29, 2023, is 8.53 months. A 25% reduction from \$900.00 monthly rent is \$225.00. Multiplying that by 8.53 months is \$1,919.25.

Respondent had constructive notice of the stove and the stove exhaust fan as of January 2022 and actual notice of the refrigerator as of May 5, 2023. The fan was replaced on September 9, 2023, and the stove was replaced as of September 27, 2023, but the refrigerator had not been replaced as of the Hearing date. With respect to the fan, from January 13, 2023 through September 9, 2023 is 7.9 months. A 1% reduction from \$900.00 monthly rent is \$9.00. Multiplying that by 7.9 is \$71.10. With respect to the stove, from January 13, 2023 through September 27, 2023 is 8.47 months. An 8% reduction from \$900.00 monthly rent is \$72.00. Multiplying that by 8.47 months is \$609.84. With respect to the refrigerator, from May 5, 2023 through September 29, 2023 is 4.8 months. A 6% reduction from \$900.00 monthly rent is \$54.00. Multiplying that by 4.8 is \$259.20. The total amount for the stove, stove fan and refrigerator is  $\$71.10 + \$609.84 + \$259.20 = \$940.14$ .

Respondent had constructive notice of the mold as of January 2022. The mold had not been remediated as of the Hearing date. From January 13, 2023 through the date of the Hearing is 8.53 months. A 5% reduction from \$900.00 monthly rent is \$45.00. Multiplying that by 8.53 is \$383.85.

Respondent had constructive notice of the carpet and actual notice of the plumbing issues as early as five years ago, and neither had been addressed as of the Hearing date. From January 13, 2023 through the date of the Hearing is 8.53 months. They are worth a 2% reduction from \$900.00 monthly rent, which is \$18.00. Multiplying that by 8.53 is \$153.54.

Respondent had actual notice of the smoke detectors on May 5, 2023, and they were replaced on or about July 11, 2023. From May 5, 2023 to July 11, 2023 is 2.2 months. A 2% reduction from \$900.00 a month rent is \$18.00. Multiplying that by 2.2 months is \$39.60.

Respondent had actual notice of the rats on May 31, 2023, and they were dealt with on or about July 11, 2023. From May 31, 2023 to July 11, 2023 is 1.37 months. A 1% reduction is \$9.00. Multiplying that by 1.37 months is \$12.33.

The total downward adjustment in rent for habitability issues is: \$3,268.35 + \$1,919.25 + \$940.14 + \$383.85 + \$153.54 + \$39.60 + \$12.33 = \$6,717.06.

### **VIII. CONCLUSIONS OF LAW**

1. Respondent is liable for the unlawful rent increase imposed by the former Landlord in 2021 pursuant to CSFRA Sections 1706(a) and (b) and 1707(a) and (c) and Baychester, 165 Cal.App.4<sup>th</sup> 1000, 1005-1006.
2. The two rent increases imposed by Respondent in February and March 2023 were unlawful because they exceeded the AGA, constituted two rent increases in one twelve-month period, and were delivered verbally. *See*, CSFRA Sections 1706(a)(b); 1707(a)(c). Because Petitioner did not pay these rent increases, no damages are owed for this claim.
3. The 2021 rent increase must be invalidated and the Base Rent rolled back to \$850.00, its level prior to the unlawful increase, and damages must be awarded for the difference between the rent paid and the unlawful rent demanded pursuant to CSFRA Sections 1702(i) and 1714(a).
4. Petitioner has met her burden of proof as to the habitability issues pursuant to CSFRA Section 1710. Respondent's liability dates back to his acquisition of title to the Property on January 13, 2023.

### **IX. DECISION**


1. The Base Rent for the Affected Unit shall be rolled back to \$850.00 per month.
2. Respondent shall pay to Petitioner the amount of \$1,500.00 as damages for collection of unlawful rent through September 2023.
3. Respondent shall pay to Petitioner the amount of \$6,717.06 as damages for failure to maintain habitable premises up to September 30, 2023.
4. The total amount set forth in 2 and 3, above, \$8,217.06, may be paid in the form of 11 monthly rent credits. This means that for the period of December 1, 2023 through September 20, 2024, monthly rent shall be reduced by \$747.00 to \$103.00, and the monthly rent for October 2024 shall be reduced by \$747.06 to \$102.94.
5. For October 1 through 31, 2023, Respondent shall refund to Petitioner the difference between the total amount paid by Petitioner to Respondent as Rent for that month and the lawful rent of \$850.00. That refunded amount shall be credited to Petitioner's monthly rental payments on or before November 1, 2024.
6. For November 1 through 30, 2023, Respondent shall refund to Petitioner the difference between the total amount paid by Petitioner to Respondent as Rent for that month and the lawful rent of \$850.00. That refunded amount shall be credited to Petitioner's monthly rental payments on or before December 1, 2024.

7. For December 1 through 31, 2023, Respondent shall refund to Petitioner the difference between the total amount paid by Petitioner to Respondent as Rent for that month and the lawful rent of \$850.00. That refunded amount shall be credited to Petitioner's monthly rental payments on or before January 1, 2025.
8. If he has not done so already, Respondent shall make the following repairs on or before 30 days from the date of this Decision: perform repairs to the heating system so that it can be turned on by Petitioner and provides necessary heat to the Affected Unit; find the cause of the mold and remediate it; replace the carpet; repair the leaky plumbing; replace the refrigerator; determine why the smoke detector is malfunctioning and address that issue.
9. Starting on October 1, 2023, damages for habitability issues still outstanding shall continue to accrue as follows, pursuant to CSFRA Regulations, Ch. 2, Section F(2)(a):
  - A. Until the heating system is repaired, Respondent shall credit to Petitioner each month the amount of 25% of her monthly rent, or \$212.50.
  - B. Until the mold is remediated, Respondent shall credit to Petitioner each month the amount of 5% of her monthly rent, or \$42.50.
  - C. Until the carpet is replaced, Respondent shall credit to Petitioner each month the amount of 1% of her rent, or \$8.50.
  - D. Until the plumbing leak is repaired, Respondent shall credit to Petitioner each month the amount of 1% of her rent, or \$8.50.
  - E. Until the refrigerator is replaced, Respondent shall credit to Petitioner each month the amount of 6% of her rent, or \$51.00.
  - F. Until the smoke detector is repaired, Respondent shall credit to Petitioner each month the amount of 1% of her rent, or \$8.50.
10. Should Respondent desire to pay any or all of the amounts ordered to be paid in this Decision earlier than as prescribed herein, he may do so. If any of the amounts directed to be paid as rent credits are paid in full as a lump sum, then the rent credits corresponding to that particular amount shall cease and shall be considered paid in full.
11. The credits and payments to Petitioner as set forth herein shall be enforceable as to any successor in interest or assignees of Respondent.
12. In the event that either Petitioner or Respondent terminates Petitioner's tenancy prior to application of the rent credits or delivery of the payments ordered by this Decision, the total amount then owed shall become due and payable to Petitioner immediately and if said amount is not paid, Petitioner shall be entitled to a money judgment in the

amount of the unapplied rent credits and/or unpaid payments in an action in Small Claims court or any other administrative or judicial or quasi-judicial proceeding.

13. Subject to Paragraph 14, below, and pursuant to CSFRA Sections 1706(a), (b) and 1707(c), (f), Respondent may not issue a Rent increase for the Affected Unit until (1) all refunds or rent credits due to Petitioner are fully paid, and (2) Respondent has provided written notice to Petitioner of the rent increase at least 30 days in advance of such increase in the manner prescribed by the CSFRA and California law. It should be noted that CSFRA Regulations Ch. 7, Section (B)(1) requires that a notice in substantially the same form as that promulgated by the Rental Housing Committee must be served on Tenants for all rent increases.
14. In addition to abiding by the requirements of Paragraph 13, above, Respondent may not issue a rent increase for the Affected Unit if Respondent is in violation of any of the provisions set forth in CSFRA Section 1707(f)(1)-(3) and CSFRA Regs. Ch. 12, Section (B), which include, among other things, registering the Property annually with the Rent Stabilization Program (see CSFRA Regs. Ch. 11), refunding **all** unlawfully charged rents **for all Tenants**, and maintaining the Property in habitable condition according to state law and the CSFRA, including making all repairs ordered hereunder or required by the City Building Department or other department of the City of Mountain View as a result of Multi-Family Housing Program Inspections. Only when Respondent has complied with all of the provisions of this paragraph and paragraph 13, above, may Respondent issue a rent increase, provided that they do so in a manner consistent with the CSFRA and California law.
15. If a dispute arises as to whether any party has failed to comply with this Decision, any party may request a Compliance Hearing pursuant to CSFRA Regulations, Ch. 5, Section J(1). Additionally, the parties are encouraged to use the services of the Mountain View Mediation Program (<https://www.mountainview.gov/our-city/departments/housing/programs-and-resources/mediation-program>) to help them resolve their long-standing differences.

IT IS SO ORDERED.

  
Barbara M. Anscher, Hearing Officer

Dated: November 22, 2023



## Hearing Officer Decision re Unlawful Rent

Month/Year of Rent Payment	Actual Premises Rent Paid	Actual Utilities Paid	Actual Additional Services Paid	Lawful Rent	Payments in Excess by Petitioner
4/2021	\$ 1,500.00	\$ -	\$ -	\$ 850.00	\$ 650.00
5/2021	\$ 475.00	\$ -	\$ -	\$ 850.00	\$ (375.00)
6/2021	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
7/2021	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
8/2021	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
9/2021	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
10/2021	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
11/2021	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
12/2021	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
1/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
2/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
3/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
4/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
5/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
6/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
7/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
8/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
9/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
10/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
11/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
12/2022	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
1/2023	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
2/2023	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
3/2023	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
4/2023	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
5/2023	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
6/2023	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
7/2023	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
8/2023	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
9/2023	\$ 900.00	\$ -	\$ -	\$ 850.00	\$ 50.00
10/2023	TBD	\$ -	\$ -	\$ 850.00	TBD
11/2023	TBD	\$ -	\$ -	\$ 850.00	TBD
12/2023	TBD	\$ -	\$ -	\$ 850.00	TBD
<b>TOTAL</b>					<b>\$ 1,675.00</b>

## Hearing Officer Decision re Failure to Maintain Habitable Premises and Reduction in Housing Services or Maintenance

Habitability/Housing Service Reduction Issue	Month/Year Issue Began	Month/Year Issue Resolved	Number of Months Issue Persisted	Monthly Rent	Percentage of Rent Reduction	Total Rent Reduction Awarded
electrical issues	1/13/2023	9/15/2023	8.07	\$ 900.00	45%	\$ 3,268.35
nonfunctioning exhaust fan	1/13/2023	9/9/2023	7.90	\$ 900.00	1%	\$ 71.10
nonfunctioning burners on stovetop	1/13/2023	9/27/2023	8.47	\$ 900.00	8%	\$ 609.84
erratic functioning refrigerator	5/5/2023	9/29/2023	4.80	\$ 900.00	6%	\$ 259.20
mold	1/13/2023	9/29/2023	8.53	\$ 900.00	5%	\$ 383.85
nonfunctioning heater	1/13/2023	9/29/2023	8.53	\$ 900.00	25%	\$ 1,919.25
old/damaged carpet with hole	1/13/2023	9/29/2023	8.53	\$ 900.00	1%	\$ 76.77
plumbing issues	1/13/2023	9/29/2023	8.53	\$ 900.00	1%	\$ 76.77
nonfunctioning smoke and carbon monoxide detectors	5/5/2023	7/11/2023	2.20	\$ 900.00	2%	\$ 39.60
rats in common areas	5/31/2023	7/11/2023	1.37	\$ 900.00	1%	\$ 12.33
<b>TOTAL</b>						<b>\$ 6,717.06</b>

## Credit Schedule

Month/Year of Rent Payment	Unpaid Rent Owed to Landlord	Rent Credited to Petitioner	Total Payment to be Paid by Petitioner
12/2023	\$ 850.00	\$ 747.00	\$ 103.00
1/2024	\$ 850.00	\$ 747.00	\$ 103.00
2/2024	\$ 850.00	\$ 747.00	\$ 103.00
3/2024	\$ 850.00	\$ 747.00	\$ 103.00
4/2024	\$ 850.00	\$ 747.00	\$ 103.00
5/2024	\$ 850.00	\$ 747.00	\$ 103.00
6/2024	\$ 850.00	\$ 747.00	\$ 103.00
7/2024	\$ 850.00	\$ 747.00	\$ 103.00
8/2024	\$ 850.00	\$ 747.00	\$ 103.00
9/2024	\$ 850.00	\$ 747.00	\$ 103.00
10/2024	\$ 850.00	\$ 747.06	\$ 102.94
TOTAL		\$ 8,217.06	

## Refund Schedule

Month/Year Refund Due	Overpayment Type	Refund Due
11/1/2024	10/2023 overpayment	TBD
12/1/2024	11/2023 overpayment	TBD
TOTAL		\$ -