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

IN RE 1826 HIGDON AVE, UNIT ■,
MOUNTAIN VIEW, CALIFORNIA

SANJUANA CASTILLO,

Petitioner,

vs.

MARIA GUADALUPE ROQUE,

Respondent.

CASE NUMBER 22230012

COMPLIANCE HEARING
DECISION

DATE: November 14, 2023
TIME: 5:30 PM

I. COMPLIANCE HEARING

On November 14, 2023 commencing at 5:30 PM a compliance hearing was held pursuant to the Community Stabilization and Fair Rent Act of the City of Mountain View (2016)

(hereinafter “CSFRA”)¹ relating to the rental property located at 1826 Higdon Ave Apartment ■, Mountain View, CA (hereinafter, the “Apartment”). Appearing at the hearing was PETITIONER Sanjuana Castillo (hereinafter “Ms. Castillo”) and her daughter, Ms. Linda Tirado (hereinafter “Ms. Tirado”). RESPONDENT Maria Guadalupe Roque (hereinafter “Ms. Roque” and, together with Ms. Castillo, “the Parties”) appeared at the hearing and represented herself. Also present at the hearing, although taking no part in proceedings, were Ms. Joann Pham (hereinafter “Ms. Pham”) and Ms. Patricia Black from the City of Mountain View's Rent Stabilization Division. Assisting with translating proceedings between English and Spanish were two translators from the City of Mountain View’s Multicultural Engagement Program, Ms. Flavia Toledo and Ms. Esperanza Sanz Escudero.

II. DOCUMENTARY EVIDENCE PRESENTED

In addition to the testimony taken at the November 14, 2023 compliance hearing, documents from the administrative record have been marked as exhibits and considered in reaching this decision. Additionally, each party submitted documents which it wished to have considered as evidence in support of their respective positions. All documents submitted by the parties have been admitted and considered in reaching this decision.

A. Hearing Officer’s Exhibits²

Exhibit HO7. Decision After Hearing, Case # 22230012, dated February 23, 2023.

Exhibit HO8. Notice of Acceptance of Compliance Petition, dated October 5, 2023 (English Version).

Exhibit HO9. Notice of Acceptance of Compliance Petition, dated October 5, 2023 (Spanish Version).

¹ The CSFRA was codified as Mountain View Municipal Code Article XVII, Section 1700 *et seq.*

² The exhibits submitted by the parties, and the administrative exhibits, have been numbered sequentially to those which were marked and admitted in advance of the initial hearing, to avoid confusion caused by having duplicate exhibits with the same identifying number.

1 **Exhibit HO10.** Notice of Compliance Hearing dated October 24, 2023 (English
2 Version).

3 **Exhibit HO11.** Notice of Compliance Hearing dated October 24, 2023 (Spanish
4 Version.)

5
6 **B. Petitioners' Exhibits**

7 Ms. Castillo submitted the following documents to be received into evidence in this
8 matter.

9 **Exhibit P14.** Compliance Petition for Decided Petitions, dated July 28, 2023

10 **Exhibit P15.** Undated Photographs of property, including bricks in the kitchen, gap
11 under the front door, the windowsill, mold on the wall, the roof outside the front door,
12 and the pipes behind the toilet.

13 **Exhibit P16.** Screenshots of text messages, beginning approximately May 8 (Spanish)

14 **Exhibit P17.** English Translation of Tenant-Landlord text messages (Exhibit P17),
15 undated.

16
17 **C. Respondents' Exhibits**

18 Ms. Roque submitted the following documents into evidence:

19 **Exhibit R7.** Objection to Compliance Petition dated October 11, 2023.

20 **Exhibit R8.** Receipt from City of Mountain View, dated February 17, 2022.

21 **Exhibit R9.** City of Mountain view Building Permit issued April 17, 2023.

22 **Exhibit R10.** City of Mountain View Multi-Family Housing Program Inspection Report
23 dated August 23, 2023.

24 **Exhibit R11.** Handwritten document entitled Fire Department 2023, dated August 21,
25 2023.

26 **Exhibit R12.** Restorex LLC Invoice dated July 1, 2022.

27 **Exhibit R13.** Uni Tile invoice and receipt dated June 30, 2022.

1 **Exhibit R14.** City of Mountain View Self Certification Form for Smoke/Carbon
2 Monoxide Detectors dated May 24, 2023.

3 **Exhibit R15.** City of Mountain View Building Permit, with inspection notes, most
4 recent dated May 23, 2023.

5 **Exhibit R16.** City of Mountain View Building Permit, with receipt dated April 17,
6 2023.

7 **Exhibit R17.** Letter to Petitioner from Respondent dated September 29, 2023 and check
8 number 1426 refunding \$931.50 to tenant.

9
10
11 **III. PROCEDURAL HISTORY OF THE PETITION**

12 The Petition was submitted to the City of Mountain View on October 19, 2022. On
13 November 3, 2022 a notice of pre-hearing conference was issued with a scheduled date of
14 November 17, 2022 at 10:00 AM. On November 17, 2022, a pre-hearing conference call was
15 held with the Parties, the hearing examiner and Ms. Pham all present on the call and participating
16 therein. Following the pre-hearing conference, a notice of hearing and summary of conference
17 was issued to the Parties on November 23, 2022. Following the hearing, a written decision dated
18 February 23, 2023 was issued and served on all Parties.

19 On July 28, 2023, Petitioner requested a compliance hearing be held. Petitioner's request
20 was approved by the City and notice was sent out to the parties on October 5, 2023. A hearing to
21 determine compliance, or lack thereof, with the prior decision, was scheduled for November 14,
22 2023 at 5:30 PM. The compliance hearing was held as scheduled.

23
24 **IV. TESTIMONY PRESENTED**

25 Both parties gave testimony at the compliance hearing. A summary of the relevant
26 testimony presented at the hearing is as follows³:

27 ³ At the compliance hearing, Ms. Castillo and Ms. Roque testified in Spanish, a language in
28 which the Hearing Examiner is not proficient. The summary of the testimony presented by those
individuals is therefore based on a translation into English by expert and experienced translators who
had taken a translator's oath on the record.

1
2 *Ms. Roque offered the following testimony in support of a finding of compliance:*

3 Ms. Roque is aware of there having been many issues at the property but everything has
4 now been fixed. The repairs were made in stages. Sometimes when repairing one thing another
5 issue would be discovered but everything is now fixed. Ms. Roque always sent a handyman or
6 maintenance people to the Property to address any concerns or fix any issues. A copy of the
7 most recent inspection of the Property by the City was submitted into evidence to be considered
8 at this compliance hearing. The inspector informed Ms. Roque that he could not make a separate
9 report for just the Unit at issue in this matter, but that he was going to issue a report that
10 addressed all three apartments at the same time. When Ms. Roque received that report there
11 were no violations listed for any of the apartments.

12 When Ms. Roque went to the City to pull a permit to allow her to make all the repairs
13 required, she was informed that the repairs themselves probably would not take too long, but the
14 process for applying for a permit to do the work would slow things down. On May 5, 2023, the
15 inspector from the City came out to inspect the work that had been done up to that point. At that
16 stage the windows had been replaced, new kitchen cabinets had been installed and a replacement
17 range hood had also been installed. While they were inspecting all of the apartments at the
18 Property the inspector asked to see the blueprints of all the apartments, not just the apartment at
19 issue in this compliance hearing. Ms. Roque did not have a blueprint of the property at that time,
20 so she had to hire an architect and have them drawn up. This naturally caused additional delay in
21 making the needed repairs.

22 After submitting the blueprints, the City informed Ms. Roque that they wanted a few
23 changes made to take care of some of the cracks and subsiding of the Property. Some wood had
24 to be replaced with new beams (known as four by fours). Ms. Roque was instructed to make the
25 necessary repairs and to leave the wall open so that the replacement beams could be inspected.
26 Ms. Roque complied with these instructions and then, after inspection, closed the wall.

27 To the best of Ms. Roque's knowledge there are currently no cracks or subsiding in the
28 Property. There was a gap in the kitchen that would let in insects or rodents which Ms. Roque

1 had trouble repairing. She was not sure how it came to exist but they kept closing the gap and
2 someone kept re-opening it. Finally, she sent out her contractor to spend all day at the Property
3 and to make sure that there were no gaps of any kind at the Property. As of the date of the
4 hearing this gap in the kitchen has been repaired and is closed. There are no gaps in the property
5 currently.

6 The doors in the Property are in good condition and are not damaged. The only issue
7 with any door in the Property is that the bathroom door is slightly swollen but it still opens and
8 closes. The front and back doors are brand new and have been replaced. They are in good
9 condition. The doors were replaced as part of the repair and inspection process at about the same
10 time as the windows were replaced, in either April or May 2023. The City inspector inspected
11 the doors and approved the repairs to them.

12 Shortly after the new front door was installed Petitioner contacted Ms. Roque and told
13 her that there was cold air coming in under the front door. Ms. Roque sent her handyman out to
14 make any needed repairs. Her contractor installed a draught excluder on the front door which is
15 approximately three inches long. It took a while to get the length right because if it was too long
16 Petitioner was unable to open the door, but if it was too short it was not sufficient to block the
17 cold air.

18 The rent refund for historical issues has been paid in full over time, with the assistance of
19 staff from the City doing the calculations. The total amount has been deducted from the rent and
20 the ordered amount was fully repaid as of September, 2023. According to Ms. Roque's
21 calculations Petitioner was supposed to pay the full amount of rent starting in October 2023.

22 In September, 2023 Ms. Roque sent a refund check to Petitioner in the amount of Nine
23 Hundred and Thirty-One Dollars and Fifty Cents (\$931.50). This check was to pay for the
24 ongoing rent rebate ordered for the months of September, October and November, 2023.

25 Petitioner paid her rent for September, October and November, but paid the lower
26 amount, decreased by the ongoing rent rebate ordered in the prior order⁴.

27 ⁴ Ms. Roque also offered testimony about the presence of dogs and a cat at the Property. Since
28 the existence of any such pets is not relevant to the sole issue of Ms. Roque's compliance with the
February order after hearing, that portion of Ms. Roque's testimony has been omitted from this
summary.

1
2 *Ms. Castillo presented testimony in opposition to a finding of compliance as follows:*

3 Ms. Castillo stated that there are still issues with the bathroom door and the front door of
4 the Property. The day before the inspector came out to do an inspection they removed the front
5 door and shaved the bottom which caused a gap underneath the door. This gap allowed cold air
6 to enter the property and was large enough for rodents to enter. The handyman who made this
7 repair was unlicensed. On November 8, 2023 another person came out to fix the door because it
8 was sweating and swelling up. The gap is no longer there and was fixed approximately two
9 months prior to the compliance hearing.

10 The hole in the kitchen was only repaired once, not multiple times. The other issue in the
11 kitchen had to do with the kitchen window. When the window was replaced the wooden frame
12 around the window was removed and has not been re-installed. There is no gap that insects or
13 rodents could enter by. Its just not nice to look at.

14 The first rent paid since the original decision was for the months of September, October
15 and November, 2023. Prior to September they did not pay any rent as it was covered by the
16 refund ordered⁵.

17 Ms. Casillo further testified about the photos that were submitted into evidence for this
18 compliance hearing. Those photographs were taken in August 2023, around the time that the
19 compliance hearing was requested. All of the defects shown in the photographs have now been
20 repaired.

21
22 *Ms. Tirado, daughter of Petitioner, testified in opposition to a finding of compliance as*
23 *follows:*

24 The photographs that were submitted in conjunction with the compliance hearing were
25 taken during either July or August, 2023. They were taken at approximately the same time as the

26 ⁵ Ms. Castillo also offered testimony about alleged defects in the refrigerator and
27 the stove in the Property, but as those issues were not relevant to the sole purpose of this hearing,
28 making a determination regarding compliance with the February 2023 order, that testimony is
excluded from this summary.

1 request for the compliance hearing was filed. All of the defects in those photographs have since
2 been fixed⁶.

3 There was an issue with the frame of the front door. The frame was cracked as the door
4 swelled up and became hard to open and close. When the City inspector came to check the doors
5 Ms. Tirado and Ms. Castillo did not say anything as they did not want to make this process any
6 longer. They want to get back to their normal lives and do not want to file any additional
7 petitions.

8 They have been paying the rent since September 2023, as Ms. Castillo testified. The
9 hood in the kitchen was replaced and is a new unit, including replacing the duct work from the
10 hood to the outside of the Property. Now everything works perfectly.

11 There have been occasions when a repair has been completed and then when the
12 contractor came back to repair something else it was an issue again. This is not because of
13 anything that is being done by Petitioner or her family. This happened because Ms. Roque's
14 contractors would rush through a repair and it would not last until the next time that the
15 contractor came to work on the Property.

16 17 **V. ISSUES PRESENTED**

- 18 1. Is Respondent in compliance with the terms of the order after hearing dated February
19 23, 2023?

20 21 **VI. DISCUSSION**

22 If there is a dispute about whether a party has complied with any prior decision or order
23 any party may file a request for a compliance hearing. *Community Stabilization and Fair Rent*
24 *Act Regulations (hereinafter "The Regulations")* § 5(J)(1). In a compliance hearing, the burden
25 of proof that there has been compliance with the prior decision or order lies with the landlord
26 who was previously ordered to make repairs, pay back rent or similar. *Regulations* § 5(J)(3).

27
28 ⁶ Like her Mother, Ms. Tirado testified about issues that were not subject to the compliance
hearing process, but would rather potentially be grounds for a new petition. Again, that testimony is
excluded from this summary as not being relevant to this instant decision.

1 In this case therefore, Ms. Roque must therefore show that she is in compliance with the
2 terms of the prior decision, dated February 23, 2023. The specific findings and orders contained
3 in the February, 23, 2023 decision that are the subject of this hearing are (1) A rent refund
4 totaling Forty-Six Thousand Eight Hundred and Thirty-Four Dollars and Fifty Cents
5 (\$46,834.50); (2) an ongoing rent rebate of Three Hundred and Ten Dollars and Fifty Cents
6 (\$310.50) per month will apply until the cracking and subsiding that allows the entry of vermin
7 into the Property is repaired. As a result of this monthly rent rebate the monthly rent for the
8 property was reduced to Two Thousand Seven Hundred and Ninety-Four Dollars and Fifty Cents
9 (\$2794.50) until the required repairs were completed.

10
11 **A. The Ordered Rent Refund.**

12 The first section of the February 2023 order dealt with a rent refund ordered as a result of
13 a series of historical defects in the Property which had been remedied prior to the order being
14 issued. Exhibit HO7, P16.

15 The record clearly shows that this refund has been paid. Respondent was given the
16 option to either make the refund as a single refund check or to give it as a rent credit. Exhibit
17 HO7, P20. Respondent elected to issue the refund as a rent credit and the rent credit covered all
18 rent due until the month of September, 2023. *Recording of Proceedings (hereinafter "RP")*
19 *43:24*. The schedule of the rent refund repayment was prepared by City staff and provided to
20 both Respondent and Petitioner. *RP 47:43*. Ms. Castillo agreed that she had received the rent
21 rebate and that the rebate ended in September, 2023. *RP 109:45*.

22 Since both parties agree that the ordered rent refund has been given Ms. Roque is clearly
23 in compliance with this portion of the February 2023 order.

24
25 **B. The Ongoing Rent Rebate.**

26 The second section of the February 2023 order related to an ongoing rent rebate due to
27 conditions that still existed at the property. Exhibit HO7, P20. The ongoing rent rebate was
28 ordered to continue until the cracks and gaps allowing the entry of vermin into the property were

1 all repaired. *Id.* The existing monthly rent of Three Thousand One Hundred and Five Dollars
2 per month (\$3,105.00) was ordered to be reduced by Three Hundred and Ten Dollars and Fifty
3 Cents (\$310.50) per month. Exhibit HO7, P.15, P.17.

4 At the compliance hearing, Ms. Roque testified that there were a lot of issues with the
5 Property but that all issues had been repaired prior to the date of the compliance hearing. *RP*
6 *11:32, see also Exhibit R7.* Ms. Roque also testified that the City had inspected the repairs and
7 had signed off on them as of the final inspection there were no issues or violations remaining at
8 the Property. *RP 12:40 see also Exhibit R10.* All repairs were completed in compliance with a
9 permit issued by the City. Exhibit R9 see also Exhibit R15.

10 Ms. Castillo also testified that there was a crack in the kitchen that was fixed prior to the
11 compliance hearing. *RP 1:16:42.* Additionally, there had been a crack below the front door that
12 allowed cold air in from outside, and also was large enough to allow vermin to enter the
13 Property. *RP 1:00:15.* The gap underneath the front door has since been repaired. *RP 1:19:08.*

14 Ms. Castillo testified that she paid the reduced amount of rent ordered in the February,
15 2023 order for the months of October and November, 2023 *RP 1:10:00.* The rent for September
16 was reduced by the remaining balance of the rent refund so she paid a lower amount of rent that
17 month. *RP 1:09:51.* There is therefore no dispute that the repairs have been completed and that
18 the rent rebate has been given appropriately.

19 From the testimony and the documents presented it is clear that the cracks and gaps have
20 been repaired to the satisfaction of the City and that Ms. Castillo has received the rent rebate
21 which was ordered in the February 2023 order.

22 Ms. Roque is therefore in compliance with this section of the February 2023 order.
23

24 **VII. DECISION**

25 1. Respondent has met her burden of proof to show that she is in full compliance with
26 the February 23, 2023 order.

27 2. All required repairs have been made to the Property and the ongoing rent rebate is
28 no longer in effect.

3. As of the effective date of this decision the monthly rent shall return to its prior monthly rent level of Three Thousand One Hundred and Five Dollars (\$3,105.00) per month.

DATED: January 12, 2024

DEREK W. CHANTLER
Hearing Officer