

RENT STABILIZATION BOARD

CITY OF EAST PALO ALTO

Gail Wilkerson and Marion Moorer,)	
)	
Petitioners)	CASE NO. 2024-0001
)	
)	
Vs.)	
)	DECISION AFTER HEARING
Woodland Park Communities,)	
)	
Respondent)	
)	

PARTIES AND HEARING DATE

Petitioners Gail Wilkerson and Marion Moorer ("Petitioners") filed on January 25, 2024 a petition with the Rent Stabilization Program against Respondent Woodland Park Communities ("Woodland Park"). The petition states Petitioners are tenants at 1609 Woodland Avenue, Apartment 4, East Palo Alto, California.

A hearing on the petition was held on May 17, 2024 at 11:00 a.m. Present at the hearing was Petitioner Gail Wilkerson and, on behalf of Woodland Park, Pabel Zumarraga, General Manager, Aura Andrade, Community Manager, and Andrea Bumagat, Compliance Manager. Also present at the hearing were Constance French and Gerald Wilkerson who provided testimony in support of Petitioners. Prior to the hearing, the undersigned Hearing Officer, at the request of Petitioners, inspected Petitioners' rental unit. Natasha Raiburn, Rent Stabilization Program Administrator, accompanied the Hearing Officer at the inspection. Mr. Zumarraga and Ms. Andrade, were present at the property but, at the request of Ms. Wilkerson, did not come into rental unit. Mr. Zumarraga and Ms. Andrade did not object to the Hearing Officer's and Ms. Raiburn's inspection of the rental unit without them.

ISSUES PRESENTED

The petition seeks a rent reduction based on habitability problems, reduction in maintenance and services, failure to provide maintenance and services required by law, code violations, and loss of or reduced housing services. To that end, Petitioners marked on their petition almost all of the boxes under "Habitability Problems", "Code Violations" and "Loss of or Reduced Housing Services." More particularly, in their petition, Petitioners identify the following as "problems": elevator, lawn chairs, tables, awnings, intercom monitor, lights in pods, blight, weeds, palm trees, dirt, dust, creek overflow mud, and swimming pool.

On February 15, 2024, Woodland Park filed a response in opposition to the petition, stating that the rental unit has been maintained in a good and habitable condition and when Petitioners have notified Woodland Park of a problem in the rental unit or on the property, Woodland Park has

addressed the problem in a timely manner. Woodland Park also contends that many of the items that Petitioners identify as “problems” have existed for many years, was the subject of a prior rent reduction hearing and, to the extent a rent reduction/rebate was ordered, the rent reduction/rebate has been provided to Petitioners.

RELIEF REQUESTED

The petition requests that Petitioners’ rent be reduced.

EVIDENCE

Petitioners have been tenants in the rental unit for many years; Petitioner Wilkerson testified that she has lived in the rental unit for 35 years. The petition sets forth numerous complaints about the way the property is managed, and alleges employees and/or agents of Woodland Park harass, bully and retaliate against Petitioner Wilkerson. Concerning matters that appear to be directly related to issues of habitability and a reduction/failure to maintain or repair, the petition states that the elevator was out of service for six months, that the property is not kept clean, for example, mud and dirt from a creek overflow in 2023 was not cleaned up for several months, and that there is no on site manager. The petition also identifies other problems, most of which as identified in the petition, have a start date in 2016.

At the hearing, Ms. Wilkerson’s testimony tended to be about many items that first occurred many years ago, for example the removal of the swimming pool, storage units and the intercom system. She did testify, however, about a water overflow in her kitchen sink in December 2023 that resulted in the discovery of a roach infestation and mold, that the elevator was out of service for six months, and that lights in the common area do not work. She expressed dissatisfaction with the overall lack of maintenance at the property.

Ms. French likewise testified that the property was not maintained properly and that she feels Ms. Wilkerson is harassed. Mr. Wilkerson who has not lived on the property for many years largely testified about matters that were several years old.

Ms. Andrade testified that Woodland Park had been responsive to the concerns of the Petitioners. For example, there is an on site manager (herself), there is daily maintenance, and that many of the issues about which Ms. Wilkerson has concerns occurred many years ago. She acknowledged that the elevator was out of service for a period of time but estimated that it was out of service only a month and a half, and that the lights in the common area are being replaced. Ms. Andrade testified Woodland Park made repairs in Petitioners’ kitchen following the water overflow and she is not aware of any ongoing issues with roaches or mold in the rental unit.

Since October 2023, Petitioners’ rent has been \$895.22/monthly. Prior to that, it was \$824.51 monthly.

LEGAL FRAMEWORK

Section 13 of the City’s Rent Stabilization and Just Cause for Eviction Ordinance (“Rent Ordinance”) addresses rent adjustments for maintenance and service reductions. The failure to maintain a rental unit in a habitable condition consistent with building or housing codes is considered an

increase in rent and a rent reduction may be ordered based on loss in rental value attributable to a failure to maintain the rental unit in a habitable condition. In addition, a decrease in housing services or maintenance without a corresponding reduction in rent is considered an increase in rent and a rent reduction may also be ordered based on loss in rental value attributable to a reduction in maintenance or services.

“Housing services” are broadly defined to include maintenance, repairs and any other benefit connected with the use or occupancy of rental unit. Rent Ordinance, Section 4, subsection G.

Subsection E of Section 1500 of the Rent Stabilization Board Regulations for Residential Tenancies in the City of East Palo Alto (“Regulations”) sets forth the grounds for reductions in rent. These include a failure of a landlord to comply with the “Warranty of Habitability” set forth in California Civil Code, section 1941.1, failure to comply with building or housing codes or other legal requirements for the maintenance and operation of rental housing which affects the livability and/or rental value of the rental unit, and decreases in housing services or failure to provide adequate maintenance without a corresponding reduction in rent. Minor maintenance deficiencies or deterioration, however, that have no or insignificant impacts on the livability of rental value of a rental unit and that do not cause any health and safety risk shall not provide a basis for reduction in the rent.

Under California Civil Code, section 1941.1, a dwelling shall be deemed untenantable if it substantially lacks any of the following: effective waterproofing and weather protection of roof and exterior walls; plumbing or gas facilities maintained in good working order; a water supply, capable of providing hot and cold running water; heating facilities maintained in good working order; electrical lighting maintained in good working order; building, grounds, and appurtenances kept in clean, sanitary and free from all accumulation of debris, rubbish, rodents, and vermin; an adequate number of receptacles for garbage and rubbish; and floors, stairways, and railings maintained in good repair.

A petitioner shall bear the burden of proof and must prove by a preponderance of evidence the grounds for a reduction in rent. Regulations, at paragraph c, subsection E, Section 1500. Reductions in rent shall be effective from the date that the landlord first had notice or should have known of the condition providing the basis of the reduction. For failures justifying a reduction in rent that are ongoing at the time of hearing, the reduction shall be in effect until the failure is corrected. Regulations, at Paragraph d, subsection E, Section 1500.

DISCUSSION

Many of the issues that are the subject of this petition were the subject of a prior petition filed by Petitioner Wilkerson in 2017. See Case No. 2017-0026. That petition requested a rent reduction based on, among other things, the removal of the swimming pool, the intercom system and storage units. The Hearing Officer at that time granted Petitioner’s request in part but not related to the swimming pool, intercom system or storage units in that those were matters that had happened many years prior to 2017. Accordingly, to the extent this petition seeks a rent reduction based on the items that were part of the petition in 2017, the petition will be denied on grounds of res judicata.

Rent includes housing services and, as stated above, housing services are broadly defined and include repairs, maintenance, and any other benefit connected with the use or occupancy of a rental unit. Petitioners have identified several housing services that have not been adequately maintained or repaired timely, such as the use of the elevator and the replacement of the lights in the common area. Although Petitioners believe that the property is not well maintained, it does appear that Woodland Park provides maintenance personnel. Moreover, during the inspection visit on May 17, the Hearing Officer did not observe any particular issues with how the property is maintained. Woodland Park acknowledges the elevator was out of service for some period of time and acknowledges that it has been tardy in replacing the lights in the common area. On the other hand, Woodland Park did respond timely to the water overflow in Petitioners' kitchen and apparently took steps to eradicate the roaches and mold.

Accordingly, Petitioners have carried their burden of proof that they are entitled to a rent reduction/rebate based on the loss of elevator service and the failure to replace the common area lights timely. A 7.5% reduction/rebate will be applied for a four month period from October 2023 through January 2024.

DECISION

1. The petition for a rent reduction/rebate based on a reduction in housing services and/or failure to maintain or repair is granted; the rent is reduced by 7.5% from October 2023 through January 2024.
2. Petitioners are entitled to a reimbursement of rent in the amount of \$268.56 [$\$895.22 \times 7.5\% = \$67.14 \times 4 \text{ months} = \268.56]. Woodland Park may reimburse Petitioners that amount or apply it as a credit against future rent.
3. In all other respects, the petition is denied.

Michael H. Roush

Dated: May 27, 2024

Michael H. Roush, Hearing Officer