

**CITY OF MOUNTAIN VIEW RENTAL HOUSING COMMITTEE**

**HEARING OFFICER DECISION**

**PURSUANT TO THE COMMUNITY STABILIZATION AND FAIR RENT ACT (“CSFRA”)**

<b>Type of Petition</b>	Tenant Petition C – Undue Tenant Hardship
<b>Case No:</b>	22230003
<b>Property Address:</b>	141 Del Medio, Mountain View CA 94040
<b>Affected Unit{s}:</b>	Number [REDACTED]
<b>Petitioner Tenant Name(s):</b>	Irina Antonova
<b>Respondent Landlord Names(s)</b>	Del Medio Manor, LLP and Calson Property Management
<b>Hearing Officer:</b>	Martin Eichner
<b>Dates of Hearings:</b>	October 6, 2022
<b>Date Record Closed</b>	October 6, 2022
<b>Date of Mailing:</b>	(See Attached Proof of Service)

**I. Statement of the Case and Procedural History to Date**

- a. A Tenant Petition C – Undue Tenant Hardship was filed by the above-named Tenant Petitioner, hereafter “Tenant,” on August 5, 2022. The Petition was filed pursuant to the Community Stabilization and Fair Rent Act, hereafter “CSFRA.” The Petition named Calson Property Management as the Landlord, hereafter “Landlord,” for the rental property occupied by the Tenant.<sup>1</sup>
- b. A Notice of Submission form was completed on August 18, 2022.
- c. The Landlord filed a Response on September 13, 2022.
- d. A Pre-Hearing Conference was held for the parties in this case and related cases at the same rental property on September 30, 2022, utilizing the Zoom platform. The Conference was conducted by Martin Eichner, the Hearing Officer assigned to decide these Petitions. The Hearing Officer issued a Pre-Hearing Order summarizing the verbal explanation and directives given at this Conference.
- e. As part of the Pre-Hearing Conference, the Tenants in units [REDACTED] and [REDACTED] requested that their cases be consolidated for Hearing, a request that was granted by the Hearing Officer. As part their request both Tenants waived any privacy issues between

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<sup>1</sup> As noted above, the owner of the rental property is Del Medio Manor LLP, which is also included in the term Landlord used herein.

themselves. The consolidated Hearing for these two Petitions was held on October 6, 2022, utilizing the Zoom platform.<sup>2</sup> The witnesses who presented testimony relevant to this case are listed below.

- f. The Hearing was completed on October 6, 2022. The Hearing record was closed at the conclusion of the October 6 Hearing, resulting in this Decision being due 30 days thereafter.

## **II. Attendees at the Hearing**

The following parties attended the Hearing and provided testimony under oath and other input for the record of this case<sup>3</sup>:

For the Tenant-Petitioner [Unit ■■■]:

Irina Antonova

For the Landlord Del Medio Manor LLC

Gina Frye and Lydia Sanabria, employees of Calson Property Management

On Behalf of the City of Mountain View Rent Stabilization Program

Patricia Black, Senior Management Analyst

## **III. Evidence**

The following documents were marked as exhibits during the hearing and entered into the hearing record:

Hearing Officer Exhibits

HO Ex. 1 – October 3, 2022 Pre-Hearing Order

HO Ex. 2 – September 23, 2022 Notice of Pre-Hearing Conference

HO Ex. 3 – Notice for October 6, 2022 Hearing

HO Ex. 4 – Notice of Settlement Conference

HO Ex. 5 – CSFRA Registration Documents for this rental property

HO Ex. 6 – City of Mountain View property inspection records for this rental property for inspections and compliance activities in 2015

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<sup>2</sup> Although the two cases were consolidated for hearing purposes, separate decisions are being issued for each case. This Decision applies only to Tenant Irina Antonova in Unit ■■■, Case Number 22230003.

<sup>3</sup> Joann Pham, City of Mountain View Rent Stabilization Program Staff also participated to provide administrative support.

HO Ex. 7 – Email from City of Mountain Staff Rent Stabilization Staff concerning CSFRA property registration status as of September 30, 2022

HO Ex. 8 – October 6 email from Patricia Black to Del Medio Manor regarding registration status

HO Ex. 9 – October 10, 2022 Email from Andrea Kennedy, City of Mountain View Rent Stabilization Program indicating that the Landlord had registered all units at the property as of that date.

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#### Tenant Exhibits

T Ex. 1 – August 5, 2022 Tenant C Hardship Petition with Addendum and other financial worksheet attachments

T Ex. 2 – August 3, 2022 Letter from tenant about the pending rent increase

T Ex. 3 – August 18, 2022 Notice of Submission of Petition served on the Landlord

T Ex. 4 – December 18, 2020 Lease Agreement

T Ex. 5 – Paystub documents for the year 2022

T Ex. 6 – August 26, 2010 birth certificate issued for Irina's minor child

T Ex. 7 – August 19, 2022 statement from [REDACTED] re his payment of child support

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#### Landlord Exhibits

LL Ex. 1 – September 13, 2022 Landlord response to the Tenant Petition

LL Ex. 2 – August 1, 2022 email to residents explaining computation of most recent rent increase

LL Ex. 3 – July 29, 2022 Notice of Rent Increase

LL Ex. 4 – Database summary of rent history prepared by the Landlord

LL Ex. 5 – Tenant ledger maintained by the Landlord applicable to this Tenant

### **IV. Summary of Relevant Evidence**

#### On Behalf of the Tenant-Petitioner Irina Antonova

She first became a tenant renting Unit [REDACTED] at this property in 2016. She had a roommate from 2017 through 2020. She has not had a roommate since 2020. Her son has lived with her throughout her tenancy, although he spends about 30% of his time with his father. Her son is now [REDACTED] years old. She pays for her son's living expenses. The boy's father pays child

support; he has paid \$15,000 this year. The father only paid partial support in September because he lost his job that month.

The hardship she claims in this case is based on the fact that her total household income is below the \$161,750 AMI (120%) for a household with two members. Her annual income for 2021, based on her 2021 tax return, was [REDACTED]. This income is documented by her income and earnings statements and includes the child support she receives. She was unemployed for the entire period from March 2020 until September 2021, when her workplace was closed in response to Covid. She is now back to work but earns less than she earned before Covid because customers still feel unsafe about visiting [REDACTED]. In 2022, she has worked at the [REDACTED] as a [REDACTED] and [REDACTED]. She was paid on a fixed salary prior to 2022. She is now compensated on a salary plus tip basis. So far in 2022, her employment income has been [REDACTED]. In September 2022, she received unemployment benefits owed from 2021 in the amount of [REDACTED]. She does not have income from any other sources such as investments. She has an application still pending for 2021 rent relief benefits in addition to those benefits she has already received for that time period.

She is current on her rent obligation for 2022.

#### Testimony from Gina Frye on behalf of the Landlord

The Tenant rents a “junior” one-bedroom, which means there is a curtain separating the rooms rather than a true wall.

The Tenant is not current on her rent. There is a balance of \$3233 past due on her account for October and November 2021. She has been current since December 2021. The rent relief program has indicated that the Landlord will receive an additional payment in the amount of \$2054 for the year 2021. The Tenant will have a past due balance for the remaining amount of her arrears that will be due after the rent relief payment is received. The Landlord received \$8101 in rent relief payments for the year 2020. The Landlord received \$19,942 in rent relief payments for the year 2021.

She doesn’t dispute any of the remaining testimony from the Tenant in this case concerning her income and rental history.

This Tenant’s initial monthly rent when she became a tenant in 2016 was \$1650. In September 2017, the monthly rent was increased to \$1706. The next increase, in September 2018, was to \$1767. The increase in September 2019 was to \$1828. As of September 2022, the rent was increased to \$1920, which the Tenant is currently paying.

Her prior testimony given in regard to Unit [REDACTED] would apply equally in this case, including her explanation of how the rent increases and AGA increases were computed.

[The relevant portions of that prior testimony are summarized as follows:]

There are a total of 104 rental units on this property at 141 Del Medio. She applies a “different set of rules” for the units subject to the CSFRA. These rules include the right to use banked increases from 2020 and 2021. They did not increase rent for these units in 2020 or

2021. The rent increase in July 2022 included the 5% AGA for that year, combined with banked increases from those prior years 2020 and 2021, which were 2.9% and 2.0%. The total increase with the banked increases was 9.9%. They did not increase the rent for all the units at the same time because certain tenants had different rent cycles. The renters with longer tenure did receive the same September 1, 2022 increase of 9.9%, a total of 39 at that time. Of those, four filed hardship petitions.

To her knowledge, she has complied with all CSFRA requirements applicable to this property. She is not aware of any pending notices from Mountain View Code Enforcement about code violations. There was a notice about two weeks ago from the fire department concerning chemicals left in a storage room, which was promptly resolved.

#### Further testimony from the Irina Antonova

The past due amount is based on unpaid rent from 2021. She is expecting that the rent relief benefit will pay this past due amount.

#### Testimony from Patricia Black

She is a Senior Management Analyst employed by the City of Mountain View Rent Stabilization Program. As such, she is familiar with the CSFRA registration requirements and the resulting landlord registration records. The applicable records show that this rental property has not been registered as required by the CSFRA, as of the time of this morning's Hearing. Relevant correspondence, such as HO Exs. 7 and 8, document notice to the Landlord that it has not complied with the registration requirements.

### **V. Issues Presented**

1. Does this Tenant qualify under the undue hardship criteria set forth in CSFRA Sec. 1707(d) and Chapter 7, Section C of the Regulations promulgated thereunder, more specifically under the applicable provisions for a household composed of families with children pursuant to Reg. Chap. 7(C)(2)(b) as alleged in the Tenant's Petition?
2. Are there "banked increases" applied by the Landlord to this Tenant during the relevant time period that would be subject to modification under the above undue hardship criteria, and if so, how should they be computed?
3. Should any such rent increase modification be subject to adjustment due to issues raised by the Landlord such as the right to a fair return or the market rental value of the Tenant's rental unit?
4. Is any rent increase subject to this Tenant Petition subject to further modification based on the Landlord's CSFRA compliance status before and after October 6, 2022?

### **VI. Findings of Fact Supporting this Decision**

1. Irina Antonova has been a Tenant occupying Unit [REDACTED] in the property located at 141 Del Medio in the City of Mountain View since 2016. During the relevant time period, she has lived in that unit with her son, who is now [REDACTED] years old. Based on the Tenant's credible testimony, which was not contradicted by the Landlord, the Tenant's rental unit is the primary residence of her son. No other adult or child lives in the unit with her.
2. The 141 Del Medio rental property is owned by Del Medio Manor, LLP. The property manager during the relevant time period has been Calson Property Management.
3. At all times relevant herein, the monthly rent paid by the Tenant was subject to the CSFRA limits on rent increases. The Tenant's initial monthly rental obligation in 2016 was set at \$1650. The Landlord did not increase the Tenant's monthly rent during the years 2020 and 2021.
4. As of the beginning of 2022, the Tenant was paying monthly rent in the amount of \$1828.85. In a notice from the Landlord dated July 29, 2022, [LL Ex. 3], the Tenant's rent was supposed to be increased to \$2009 per month as of September 1, 2022.
5. The Tenant's September 1, 2022 monthly rent increase noticed in the amount of \$2009 was based in part on the Landlord's application of "banked" increases, applying those permissible AGA increases that were not imposed on the Tenant in the prior years 2020 and 2021.
6. The Landlord's witness testified that the computation of the September 1, 2022 increase for this unit included banked increases of 2.9% and 2.0%, which when combined with the 5% AGA, resulted in a total increase of 9.9%.<sup>4</sup>
7. The Tenant Hardship Petition filed by the Tenant, [T Ex. 1], was filed on a timely basis. It was filed on August 5, 2022, prior to the September 1, 2022 effective date for the rent increase at issue in this case.
8. The Tenant has been paying the \$1920.29 monthly rent amount since September 1, 2022. According to the Landlord testimony, the Tenant is current on her rental obligation even though that amount does not match the \$2009 monthly rent amount stated in the July 29, 2022 rent increase notice, LL Ex. 3. The amount actually be paid appears to represent the amount of the 5% AGA increase only.
9. Of the 104 total rental units located on this property, 39 received rent increases that became effective as of September 1, 2022. Those increases included banked amounts. Of those 39, the tenants in 4 of those units filed hardship petitions, which amounts to approximately 10% of the affected units.

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<sup>4</sup> As noted herein, there is a discrepancy in the new rent due under the July 29, 2022 rent increase notice, LL Ex. 3, and the amount that the Landlord witness testified was actually being paid by the Tenant. The Conclusions of Law and the Award are framed so as not to be affected by this discrepancy.

10. The Tenant's annualized income as of September 2022 was significantly lower than the applicable one hundred and twenty percent (120%) of the median household income for Santa Clara County as adjusted for her household size of 2, according to the California Department of Housing and Community Development. The Tenant's annualized income as of September 2022 was [REDACTED], which includes child support payments from her son's father.
11. The Tenant's income after September 1, 2022 will be lower because her child support payments are in jeopardy due to the current unemployment of her son's father.
12. The Tenant's income has been significantly below the applicable AMI amount for a representative period of time prior to September 2022. Her annualized income for the year 2021, based on her employment in the [REDACTED] supplemented with child support payments, was [REDACTED].
13. The Tenant testified credibly that she has no other sources of income, including passive income such as income from investments.
14. The Landlord did not dispute any of the Tenant's testimony or documentary evidence describing her income.
15. The Landlord's representative testified credibly that a recent fire department inspection was promptly resolved. However, The relevant evidence, [HO Exs. 8 and 9], demonstrates that the Landlord had not complied with the registration requirements of the CSFRA at the time the Petition in this case was filed. The Landlord remained non-compliant until registration was completed and accepted by the City on October 10, 2022.

## **VII. CONCLUSIONS OF LAW**

- A. The rental property and the unit occupied by the Tenant in this case are subject to the jurisdiction of the CSFRA.
- B. The September 1, 2022 monthly rental increase given to the Tenant by the Landlord was based in part on the Landlord's application of "banked" increases permitted by Section 1707(d) of the CSFRA. This provision of the CSFRA permits the use of banked increases. However, this same section of the CSFRA along with Chapter 7, Section C of the Regulations established to implement the banking provisions, renders any such banked increases subject to the "undue hardship" sections of these same provisions.
- C. The Tenant's Undue Tenant Hardship Petition was filed on a timely basis, within the timeframe established by Reg. Chap. 7(C)(1)(b).
- D. Pursuant to Reg. Chap. 7(C)(1)(c), the petitioning Tenant has the burden of proving the undue hardship claim.

- E. The Tenant has met her burden of proving that her household income during the applicable period has been significantly below 120% of the median household income for Santa Clara County as adjusted for her household size of 2.
- F. As a result of meeting her burden of proof, it is presumed that the Tenant meets the applicable undue hardship provisions set forth in CSFRA Sec. 1707(d) and Chapter 7, Section C of the Regulations and specifically the requirements in Reg. Chap. 7(C)(2)(b).
- G. There is no basis in the Hearing record for this case that rebuts or refutes this presumption.
- H. The circumstances of the Tenant's income indicate that her undue hardship will continue for the foreseeable future.
- I. Based on these conclusions, the Tenant is entitled to relief from the undue hardship she has proven, pursuant to Reg. Chap. 7(C)(6). Specifically, she is entitled to a rebate in the amount of the banked rent increases she has paid since September 1, 2022 and she is entitled to a reduction in her monthly rent obligation equivalent to the banked increases continuing thereafter until August 31, 2023.
- J. The reduction in rent awarded to the Tenant in response to her Petition does not interfere with the Landlord's overall right to a fair return for its investment in this property. The great majority of other units on this property are paying the banked increases implemented by the Landlord at the same time, approximately 90% of the affected units. The Landlord's right to fair return is further protected by the fact that this Tenant and all other affected tenants are paying the full AGA for 2022. It is relevant that the Landlord did not file its own Petition asserting that an additional rent increase was necessary to provide a fair return.
- K. The Landlord's related assertion in its Response to the Petition, [LL Ex. 1], that the rent being paid by the Tenant is "grossly under market" is not a factor that the CSFRA permits a hearing officer to consider when determining an undue tenant hardship petition.
- L. Based on its failure to comply with its registration requirements under CSFRA Reg. Chap. 11(B)(1) and 11(F), the Landlord's failure to register constitutes "substantial noncompliance" with the CSFRA. Under CSFRA Section 1707(f)(1) "no rent increase shall be effective" where the Landlord is in substantial noncompliance with any provision of the CSFRA or its Regulations. The failure of the Landlord in this case to comply with the registration requirements in the CSFRA Regulations prior to October 10, 2022, precludes the Landlord from instituting any rent increase, including any AGA or any banked increases, prior to October 10, 2022. The Tenant is entitled to a rebate of the entire amount of the rent increase she paid in addition to her prior monthly rental obligation from September 1 through October 9, 2022.



## VIII. AWARD

- i. The monthly rental obligation of the Tenant in this case for the time period between September 1, 2022 and October 9, 2022 is reduced for the entire amount of the rent increase imposed by the Landlord. That reduction includes both the amount of the AGA increase for 2022 as well as all banked increases for this time period.
- ii. The rental obligation of the Tenant in this case from October 10, 2022 through August 31, 2023 is reduced by any banked increase amount that exceeds the 5% AGA increase implemented as of September 1, 2022.
- iii. The Tenant will remain obligated to pay the 2022 AGA increase during the October 10, 2022 through August 31, 2023 time period.
- iv. Whether the Landlord can apply any banked increase to the Tenant's rental obligation at any point in time after August 31, 2023 is not within the scope of this Decision.
- v. Any rental amounts that the Tenant has paid since September 1, 2022 for rent increases that exceed the reduced rental obligation under this Award shall be applied as a rent credit to the Tenant's monthly rent obligation for the first monthly rent period that occurs after this Decision become final. If the Tenant has vacated her rental unit prior to the date this credit would be applicable, the Landlord shall pay the amount of the credit to the Tenant directly after this Decision become final.

Dated: November 8, 2022

A handwritten signature in blue ink, appearing to read 'Martin Eichner', is written over a horizontal line.

Martin Eichner  
Hearing Officer