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CITY OF MOUNTAIN VIEW
ADMINISTRATIVE HEARING UNDER COMMUNITY STABILIZATION AND FAIR
RENT ACT

**IN RE 465 CHIQUITA AVE,
APARTMENT ■, MOUNTAIN VIEW,
CALIFORNIA**

LORENZO ROSAS TORRES,

vs. Petitioner,

TENANT PLANET INC.,

Respondents.

CASE NUMBER C22230021
DECISION AFTER HEARING
DATE: MAY 18, 2023
TIME: 2:00 PM

I. HEARING

On Thursday, May 18, 2023 a hearing was held relating to 465 Chiquita Avenue, Apartment Three, Mountain View, California (hereinafter “the Property”), pursuant to the Community Stabilization and Fair Rent Act of the City of Mountain View (2016) (hereinafter

1 “CSFRA”)¹. PETITIONER LORENZO ROSAS TORRES was present and represented himself
2 at the hearing (hereinafter “Mr. Rosas” or “Petitioner”). RESPONDENTS TENANT PLANET
3 INC. (hereinafter “Respondents” or “Tenant Planet” and, together with Mr. Rosas, “the Parties”)
4 were represented at the hearing by Ms. Lauren Gurrola. Ms. Esperanza Sanz Escudero from the
5 City of Mountain View Multi-Cultural Engagement Program was present to provide
6 interpretation services to the parties, on an as-needed basis. Also present at the hearing, although
7 taking no part in proceedings, was Ms. JoAnn Pham (hereinafter “Ms. Pham”) from the City of
8 Mountain View.

10 II. DOCUMENTARY EVIDENCE PRESENTED

11 In addition to the testimony at the May 18, 2023 hearing, certain documents from the
12 administrative record have been marked as exhibits and considered in reaching this decision.
13 Additionally, each party submitted documents which it wished to have considered as evidence in
14 support of their respective positions. All documents submitted have been admitted and
15 considered in reaching this decision.

17 A. Hearing Officer’s Exhibits

18 **Exhibit HO1.** Notice of Submission and Proof of Service to Landlord dated December
19 30, 2022.

20 **Exhibit HO2.** Notice of Acceptance of Petition dated January 30, 2023.

21 **Exhibit HO3.** Written Order and Summary of Conference Call dated May 2, 2023.

22 **Exhibit HO4.** Notice of Pre-Hearing Order and Notice of hearing, dated May 3, 2023

23 **Exhibit HO5.** Notice of Pre-Hearing Meeting, dated April 7, 2023.

24 **Exhibit HO6.** Petitioner’s signed Prehearing Settlement Conference Confidentiality
25 Acknowledgement for settlement conference scheduled March 29, 2023

26 **Exhibit HO7.** Notice of Settlement Meeting dated March 10, 2023

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

1 **Exhibit HO8.** Follow-Up Information and Notice of Pre-hearing Conference dated
2 January 30, 2023.

3
4 B. Petitioners' Exhibits

5 Mr. Rosas submitted the following documents to be received into evidence in this matter.

6 **Exhibit P1.** Petition A for Downward Rent Adjustment (Unlawful Rent), dated
7 December 30, 2022.

8 **Exhibit P2.** Workbook accompanying Tenant Petition A, Undated.

9 **Exhibit P3.** Rent Payment ledger dating from March 2022 to December, 2022.

10 **Exhibit P4.** Screen Capture showing registration status of property, undated.

11 **Exhibit P5.** Residential Lease Agreement and related documents, dated April 7, 2021.

12 **Exhibit P6.** Information Sheet from Respondent regarding Local and Main office
13 addresses, undated.

14 **Exhibit P7.** Email from Petitioner to Respondent dated January 3, 2023 regarding
15 return of petition packet.

16 **Exhibit P8.** City of Mountain View Fire Prevention Notice of Inspection and reports
17 dated between July 28, 2011 and March 7, 2023.

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19 C. Respondents' Exhibits

20 Tenant Planet, Inc. did not submit any documents into evidence:
21

22 **III. PROCEDURAL HISTORY OF THE PETITION**

23 The Petition was submitted to the City of Mountain View (hereinafter "the City") on
24 December 30, 2022 and approved as complete on January 30, 2023. The Parties attempted to
25 settle, but were unsuccessful². On May 3, 2023 a notice of hearing was issued with a scheduled

26 ² Although not relevant to the disposition of this Petition, it is worth noting that the
27 mediation/settlement process was significantly delayed due to Respondents' failure to engage in the
28 mediation process. First Respondents failed to respond to a request for mediation/settlement made by
 Petitioner for several weeks, then a mediator was assigned and a mediation date was set.
 Unfortunately, Respondents failed to appear at the scheduled date and time and this matter was
 thereafter set for formal hearing.

1 hearing date set for May 18, 2023 at 2:00 PM. On May 1, 2023, a pre-hearing conference call
2 was held with the Parties, the Hearing Examiner and Ms. Pham were all present on the call and
3 participating therein.

4 5 **IV. TESTIMONY PRESENTED**

6 Mr. Rosas presented testimony in support of the Petition. Mr. Rosas has been a tenant at
7 the Property since approximately April 2021. When he moved in, he paid a security deposit of
8 \$3,432.00. In April 2023, Mr. Rosas paid less rent than usual, but he is not sure why. Mr. Rosas
9 pays the rent through an online tenant portal. The rent is the only payment he makes to
10 Respondents. Mr. Rosas pays the electric bill and his internet bill direct to the provider but does
11 not pay separately for water usage.

12 After the expiration of his first year of tenancy, Mr. Rosas received a rent increase. The
13 rent increase was from \$2,288.00 per month to \$2,516.80 per month. This represented a rent
14 increase of ten percent (10%). Mr. Rosas believes that the rent increase should only have been
15 five percent (5%), if the property was properly registered with the City, and no rent increase
16 should have been imposed if it was not registered.

17 Mr. Rosas likes living at the Property; it is calm and peaceful with not too many people.

18 Ms. Gurrola, on behalf of Respondents, testified that Respondents first started managing
19 the Property on June 1, 2021. Ms. Gurrola stated that there was indeed a rent increase imposed,
20 effective July 2022; however, Respondents subsequently discovered that the amount of rent
21 increase was incorrect and should have been five percent (5%) and not the ten percent (10%) that
22 was noticed and imposed. Upon discovering this error, Respondents issued a rent credit to Mr.
23 Rosas which was reflected in the reduced rental payment for April 2023. According to
24 Respondents, the actual correct rental amount moving forward will be Two Thousand Four
25 Hundred and Two Dollars and Forty Cents (\$2,402.40).

26 Ms. Gurrola is not aware of why the Property was not registered with the City, nor does
27 she have any knowledge about the current registration status of the Property. Ms. Gurrola testified
28 that this is a matter that Respondents leave to the owners of the property.

1
2 **V. ISSUE PRESENTED**

- 3 1. What is the correct monthly rental amount for the property?
4

5 **VI. DISCUSSION**

6 The Ordinance is clear that a landlord is entitled to an annual rent increase for each rental
7 property within the City. *CSFRA § 1707(a)*. That increase must be limited to the Annual General
8 Adjustment (“AGA”) announced annually by the Rental Housing Committee. *Id.* Unused rental
9 increases from previous years may be imposed, so long as there is only one rent increase per year and
10 the total of the annual rent increase is not more than ten percent (10%). *CSFRA § 1707(b)-(e)*.
11

12 **A. IMPROPER RENTAL INCREASES.**

13 The AGA announced by the City for program year 2021, which covered the period of
14 September 1, 2021 through August 31, 2022, was two percent (2%). *Rental Housing Committee*
15 *Resolution Number RHC-42*. The AGA for program year 2022, which covered rent increases from
16 September 1, 2022 through August 31, 2023, was five percent (5%). *Rental Housing Committee*
17 *Resolution Number RHC-72*.

18 In this case, the rent increase that was noticed and imposed upon Mr. Rosas was noticed in
19 May 2022, with an effective date starting in July 2022. *Recording of Proceedings (hereinafter*
20 *“RP”)* 21:35. This rent increase, as noticed, contained a 10% rent increase. *Id.* Respondents
21 concede that this rent increase was improper and have since taken steps to correct the rent incorrect
22 amount. *RP* 22:07. Respondents have now retained only the five percent (5%) rent increase to
23 which they believe they are entitled under the CSFRA and state that the rental amount going forward
24 will be Two Thousand Four Hundred and Two Dollars and Forty Cents (\$2402.40). *RP* 23:06.

25 However, Respondents have miscalculated the permitted amount of rent increase. Had the
26 rent increase been noticed and effective after September 1, 2022, five percent (5%) would have been
27 the correct rent increase permitted under the AGA, assuming any rent increase at all was proper. In
28 this case, however, the rent increase was noticed and effective during a twelve-month period when the

1 2021 AGA was in effect and thus the maximum rental increase to which Respondents would have
2 been entitled would have been two percent (2%), not five percent (5%).

3 The “corrected” rent increase of five percent (5%) is therefore also not valid.

4 **B. FAILURE TO REGISTER THE PROPERTY**

5
6 The Ordinance, however, also contains provisions wherein a Landlord may not impose
7 any rent increase at all. The CSFRA specifically disallows a rent increase under three
8 circumstances. First, if the landlord has failed to substantially comply with all of the provisions
9 of the CSFRA and the Regulations issued by the RHC. *CSFRA § 1707(f)(1)*. Second, no rent
10 increase is permitted if the property is not maintained in compliance with State Law Provisions.
11 *CSFRA § 1707(f)(2)*. Third, and finally, no rent increase is permitted if a landlord has failed to
12 make repairs ordered by a Hearing Officer, the RHC or another department of the City. *CSFRA*
13 *§ 1707(f)(3)*.

14 The record contains no indication that there are any habitability issues with the Property.
15 Indeed, Mr. Rosas testified that the property is nice and peaceful and that the only issue he had
16 experienced was an intermittent issue with the toilet. *RP 13:49*. Similarly, there is no indication
17 in the record that there are any outstanding orders for repair for the Property.

18 The issue, however, is whether or not the property is in compliance with the CSFRA and
19 the Regulations. The CSFRA Regulations contain a provision that all non-exempt residential
20 rental properties within the City must be registered by February 1 of each year and a fee for
21 registration be paid by the property owner. *Community Stabilization and Fair Rent Act*
22 *Regulations (hereinafter “Regulations”) Chapter 11(B)(1)*.

23 The record indicates that the property was not registered in program year 2022 but that
24 registration of the Property was completed, with fees paid at some point between January 4, 2023
25 and May 1, 2023. **Exhibit P4**.

26 Unfortunately, this indicates that the property was not registered, or the registration fees
27 paid, at the time that the rental increase was noticed, or effective. As such, Respondents were
28 not entitled to collect any rent increase at all at that time.

1 Respondents discovered their error and issued a rent refund to Petitioner in April 2023.
2 The April rent reduction sought to refund the difference between the ten percent (10%) rent
3 increased effective July 1, 2022 and the “corrected” rent increase of five percent (5%). *RP*
4 22:09. There is no evidence in the record that this refund was not given, neither is there a
5 dispute between the Parties that this refund was not accurate, or that the amount refunded was
6 incorrect. Respondents have, therefore retained only the “corrected” rental amount of \$2,402.40
7 per month since the effective date of the rent increase, July 1, 2022.

8 Since there has been only one noticed rent increase imposed on Mr. Rosas, the initial rent
9 that Mr. Rosas paid at the commencement of his tenancy remains the legal rent as of the date of
10 this decision. Respondents are, of course, free to notice and collect a future rent increase in
11 compliance with the CSFRA, should they wish to do so once Respondents have complied with
12 this decision.

13 Petitioner is therefore entitled to a rent refund of the difference between the rent
14 permitted under the CSFRA, (\$2,288.00 per month) and the current amount being charged by
15 Respondents (\$2,402.40 per month). The difference between the permitted rent and the actual
16 rent charged is One Hundred and Fourteen Dollars and Forty Cents (\$114.40) per month.
17 Respondents have been retaining this amount since July 2022, a total of thirteen months to July
18 2023.

19 Petitioner is therefore entitled to a total rent refund of One Thousand Four Hundred and
20 Eighty-Seven Dollars and Twenty Cents (\$1,487.20). Respondents are also required to refund
21 any rent above \$2,288.00 per month collected from Petitioner between the first day of August,
22 2023 and the effective date of this decision.

23 These rent refunds may be made as a rent credit or a check to Petitioner, at Respondents
24 full and sole discretion and should be made in full within thirty (30) days of the effective date of
25 this decision.

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1 **VII. DECISION**

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3 1. Petitioner's request for a downward adjustment of rent is GRANTED.

4 2. The Correct Rental Amount for the Property is the initial rent charged at move-in,

5 the sum of Two Thousand Two Hundred and Eighty-Eight Dollars (\$2,288.00) per month.

6 3. Petitioner is entitled to a total rent refund of One Thousand Four Hundred and

7 Eighty-Seven Dollars and Twenty Cents (\$1,487.20) plus any rent collected and retained above

8 the permitted monthly rent (\$2,288.00) after August 1, 2023. See Attachment 1 to this Decision

9 for the Award Schedule.

10 4. If a dispute arises as to whether any party has failed to comply with this Decision,

11 any party may request a Compliance Hearing pursuant to CSFRA Regulations, Ch. 5, Section J(1).

12

13

14 DATED: August 3, 2023



DEREK W. CHANTLER
Hearing Officer

**Attachment 1
Award Schedule**

465 Chiquita Ave - RHC Petition# C22230021

Hearing Officer Decision

Month/Year of Rent Payment	Actual Rent Paid	Lawful Rent	Payments in Excess by Petitioner
7/2022	\$ 2,402.40	\$ 2,288.00	\$ 114.40
8/2022	\$ 2,402.40	\$ 2,288.00	\$ 114.40
9/2022	\$ 2,402.40	\$ 2,288.00	\$ 114.40
10/2022	\$ 2,402.40	\$ 2,288.00	\$ 114.40
11/2022	\$ 2,402.40	\$ 2,288.00	\$ 114.40
12/2022	\$ 2,402.40	\$ 2,288.00	\$ 114.40
1/2023	\$ 2,402.40	\$ 2,288.00	\$ 114.40
2/2023	\$ 2,402.40	\$ 2,288.00	\$ 114.40
3/2023	\$ 2,402.40	\$ 2,288.00	\$ 114.40
4/2023	\$ 2,402.40	\$ 2,288.00	\$ 114.40
5/2023	\$ 2,402.40	\$ 2,288.00	\$ 114.40
6/2023	\$ 2,402.40	\$ 2,288.00	\$ 114.40
7/2023	\$ 2,402.40	\$ 2,288.00	\$ 114.40
8/2023	TBD	\$ 2,288.00	TBD
TOTAL			\$ 1,487.20

Credit Schedule

Month/Year of Rent Payment	Monthly Rent Owed (Base Rent)	Rent Credited to Petitioner	Total Payment to be Paid by Petitioner
9/2023	\$ 2,288.00	\$ 1,487.20	\$ 800.80
10/2023	\$ 2,288.00	TBD	TBD
TOTAL		\$ 1,487.20	