Response to Tentative Appeal Decision (Petition 21220008)

We are fully surprised and disappointed at the results of this Tentative Appeal Decision.

Before I get to my point, I want to report our updates and progress! We started repairs right after Ms. Martinez was moved out on June 27th. **We finished all the repair work by July 6th and passed the final inspection by July 7th. Actually, Ms. Martinez moved back in on July 7 night right after I informed her all work was done.** As you can see, as always, we respond quickly when we identify there is a real issue which needs to be taken care of, like all other problems solved timely within the property. We never shy away from any of a proper landlord's responsibilities, as we do our best to be.

I. We still insist that the rent cut starting from March is not reasonable.

In order to solve a problem, people need to identify the problem first. On top of that, after identification, people need a reasonable time to fix the problem. Correct, yes? However, in this case, we could not even access Unit 2 to identify the problem, because Ms. Martinez did not allow us to enter Unit 2 until the day we entered with the city inspector together on March 15. How could we possibly have fixed the problem by March 1st? But yet, according to the hearing results and this tentative appeal decision, we are required to refund Ms. Martinez $320.50 ($291.40 +$29.10) each month starting from March 1st. This is not a reasonable result we can accept. There was no possible way we could have accessed it to solve the problem earlier.

A. Identifying the problem counting from December is absolutely wrong.

1) In Dec 2021, there was not enough evidence to show that the bathroom floor issue was a real issue until we got the city inspection report by March 21st, 3 months afterwards. The main reason is that the tenant, Ms. Martinez has been living there for over 20 years, whereas we just bought this property on Nov. 22nd, 2021. As new landlords who have not lived here before, have not been able to do thorough inspection much less at the professional level, we didn't know much about her unit. This is the truth. On the other hand, Ms. Martinez has lived in the unit for over 20 years. She definitely knows much more about what is going on in her unit, and of the living conditions, especially since she lives there.

   Throughout these years, there were no petitions or complaints in any written documents about this condition till now.

So, was the issue brought up all of a sudden? We suspect it is retaliation, in response to the fact that we have upheld the law and legality of our estoppel: we have firmly told her that subleasing was not allowed by our leasing agreement. Disagreements like these are the reason that

landlord and tenant both need a committee such as RHC to facilitate and help make a decision, but it must be one that is fair and unbiased.

2) Additionally, before March 15, the bathroom we went in had another extra layer of tile over the floor because Ms. Martinez put a layer of tile on her own, of her own accord, not ours. The feeling of walking on the original floor with the extra tile on top, our experience, was totally different compared to the feeling of the floor after Ms. Martinez peeled off the tiles after Feb. 8th. The floor with the extra layer felt much stronger, more stable, and not as squishy as what the city inspector stepped on. In the meantime, during the period before Feb. 8th, we were in her bathroom very busy with actively solving other problems, such as spraying mold spots and fixing her toilet, which we did on Dec 7 and Jan. 27. We did not pay attention to the floor in the midst of all these issues, as we were too busy fixing her bathroom's living conditions as soon as we could. When Ms. Martinez mentioned the floor issue to us, she emphasized how ugly it was, like an aesthetic problem. In response, we talked to our contractor about it, who said that he could not detect what the problem was, if any, until he opened up the floor. This contractor worked in her bathroom 2 days back in December. In this scenario, all the way back in Dec, before any inspection and before the tile came off, how would one choose to open the floor and spend a lot of money with only knowledge of the cosmetic issue and not any others? We believe you would do the same as we do, to wait for a professional to ascertain the problem, which happened later.

3) In the hearing results, the city officer just assumed we were aware of Unit 2's subfloor issue on Dec. 7th. This was a wrong, unfounded assumption that painted us unfairly, because we had no idea about the issue then. Back then, we thought we had fixed all the bathroom problems. How were we to possibly know of something underneath a floor? We are first-time landlords to a 4-plex, and do not have the expertise to even make an educated guess, much less make a professional judgment upon housing structures. By just walking on her bathroom floor for a short time, there was no way to ascertain that her bathroom floor had a safety issue; how could any layman tell with only this information? **If we knew for sure, we would never buy this property. Even my contractor, a professional, could not ascertain for sure of any safety issue going off of merely walking on it, with the limited access we had. We did not know of any subfloor issue in Dec, otherwise we would have done our best to solve it earlier.**

4) Additionally, earlier, between Feb 8 to March 15, we actually tried several times to check her bathroom, but we were unable to access it because Ms. Martinez said she preferred it to be handled by the City. In response, we both agreed to wait for the City's decision. Then, the petition decision was served on May 16th. **If Ms. Martinez had allowed me to access her bathroom during this period, the issue would have been solved much earlier, but instead it was delayed months.**

5) The City said we knew about Unit 2's issue from the inspection report before we purchased the property on Nov. 22nd, 2021. No, we unfortunately did not know at all.

We were not aware. If Unit 2 had had a safety issue, it would be in red letters on the disclosure to give an alert to the buyer, specifying that upon purchase they would need to fix the problem immediately. In the disclosure, we didn't see it. If it did, we would repair it as soon as we got the property or we would not buy this property at all. We didn't provide it, because we didn't think it would help with this petition.

Therefore, counting the identification of the issue as starting from December 1st is not at all reasonable, as there was no way to know and moreover we did not have access to check further.

B. <u>About the process of solving the issue to fix the bathroom:</u>

- According to the city inspection report, we needed to apply for a permit first. We immediately started to correct all violations after we got the inspection report and applied for the permit for her unit. We got the permit on April 22nd.
- On May 16, the City served us the decision. Only then could both Ms. Martinez and we finally know what to do for the next step. On May 17th, the very next day, we brought another contractor over for estimation, and talked to the city officers and Ms. Martinez about the relocation.
- In order to repair her bathroom, Ms. Martinez had to move out.
- On May 23rd, Ms. Martinez said she could move out on June 1st. But when we informed her my contractor could start work on June 2nd or 4th, she changed the date to July 1st, a month later, then finalized it as June 27th. Ms. Martinez postponed the repair work by almost a month. We should not cut the rent for that month for any reason not due to us, as she was the one that delayed.
- The repair work was finished on July 6th, including remodeling the entire bathroom, of course a new toilet, and fixing the crack ceiling. They passed the final inspection on July 7th.

As you can see the timeline above, we responded to the city and the tenant very promptly. There were lots of things beyond our control, especially as brand new landlords of this property and in the Pandec situation. Without a permit, we couldn't do repairs. Without Ms. Martinez moved out until June 27th, we couldn't do repairs before then, either. We have to meet the city's requirements, arrange the contractor's schedule, and Ms. Martinez's moving out for a repair period. There was lots of communication and work, and it was not an easy job. Giving us a three month period of repairing is a reasonable time frame once we know what to do and how to do it. It was such a release, all repair work was done!

Conclusion above, May 16 should be counted as the start point. Before the hearing result was served to us, we could not have known what to do and how to do it, and additionally, Ms. Martinez would not cooperate with us earlier, so we couldn't do anything but wait. Ms. Martinez texted me to ask me to text her only. She refused to talk to me on the phone multiple times. Hence, It was not our fault for not repairing her bathroom in a timely method. With the City's involvement as well, neither us nor Ms. Martinez could control

the progress, which is fine, but you must take that into account. In the face of this, we *still* tried our best to finish the repair work as soon as we could, being extremely prompt: we applied for the permit right after we had the inspection report; we arranged the work schedule and move-out schedule between the contractor, the tenant, and the City immediately after we had the hearing result. We finished work in 10 days and Ms. Martinez moved back in right away. With all of the above, we fulfilled our duty as a landlord in a timely method. We always solve the problem as needed if it is a reasonable request. We finished the repair within 3 months. Therefore, no rent cut is needed.

II. Subleasing is not allowed in the leasing agreement.

On page 9 in the leasing agreement, *30. ASSIGNMENT OR SUBLEASE: Tenant agrees not to transfer, assign or sub-lease the Leased Premises without the Landlord's written permission.* If we all agree the leasing agreement is active and it has law enforcement, the subleasing issue should not even be included in the petition in the first place; it is completely irrelevant. For the record, Ms. Martinez has had two roommates in the past, yet she has never made a written request to add a roommate and never got written permission from the previous landlord, Haibo Chi, who was landlord during this time. She secretly had a roommate. This was illegal.

On May 26, we submitted a testimony from Haibo Chi to the City as evidence to prove her sublease was illegal. This testimony was not mentioned in this Tentative Appeal Decision at all. Why?

In that email, Haibo Chi wrote: “Ms. Martinez did not request me to add a roommate or ask permission to sublease in writing. I definitely did not give permission to her for subleasing in writing, not even verbally. As a matter of fact, I talked to her once and pointed out that sublease is not allowed.” Thus, we could understand why Ms. Martinez used “temporary roommate” in her text message with Haibo Chi, (see Martinez’s texting messages with Haibo Chi).

Ms. Martinez very much *knew* she should not sublease to anyone without her landlord’s written permission. Ever since we bought this property, Ms. Martinez was the only occupancy in the unit, which is just like the leasing agreement says; this is proper and legal. So, keep it this way! There is no such thing as a “replacing a roommate” issue—whatever “roommate” she had previously was an illegal one. Adding a new roommate requires a new lease, and that is the law.

Additionally, on Tentative Appeal Decision, page 6, conflating my proposal (about an example future scenario) with a fact jump to a conclusion of “increase of $1400 for a new roommate” made us speechless. This totally distorted what we meant and is completely wrong, and this assumption was out of left field. $1400 is not a real number of rent here or anywhere at all, it was an example. My proposal is an example that would maybe only apply if she adds a roommate that splits costs, so it is irrelevant in the current scenario. If Ms. Martinez doesn’t add a roommate and stays as she is, she will continue to pay whatever she is paying now. No rent increases unless one is granted by law. At the same time, no sublease is allowed by the leasing agreement, so no roommates unless there is a new agreement.

III. Lawful Entry with a written 24 hr notice for repair

On the Mountain View city website, it specifically says Landlord has the right to enter for necessary or agreed repairs or services or allowed inspections.
In the past few months, we could not access her unit to identify the bathroom issue because Ms. Martinez refused to allow us. We had a pending sign of the smoke detector in the 2nd bedroom on our final inspection due to not being able to get into her 2nd bedroom on July 7th. 2022. It is a record showing on my permit inspection page.
For repairing or even improvement, we proposed to Ms. Martinez to remove popcorn for her unit on July 5th, if she could remove all her belongings in the locked 2nd bedroom to my empty garage. We even offered to help her move her stuff to the garage, but she refused. We couldn't do anything. **Here, we would like to declare that for any issue raised up due to the popcorn ceiling later on, we are not responsible, as she refused us access, so nothing we can do.**

In conclusion:

No rent cut is necessary, as we have finished repairs as soon as the City and Ms. Martinez allows us to do so, and has responded very promptly in every situation to the best of our ability.
No Sublease is allowed with a landlord's written permission according to the leasing agreement.
Landlord has a lawful entry with a written 24 hour for necessary or agreed repairs or service or allowed inspections.

Ms. Martinez only raised this issue recently, even though the condition has existed previously for a long time to her own knowledge which she has submitted proof of. If she has documentation of this, why did she never report before?