ATTACHMENT 2

City of Mountain View

Rent Stabilization Program

(650) 903-6149 | mvrent@mountainview.gov
Mountainview.gov/rentstabilization

NOTICE OF HEARING OFFICER WRITTEN DECISION OF PETITION REQUESTING ADJUSTMENT OF RENT AS DEFINED BY THE COMMUNITY STABILIZATION AND FAIR RENT ACT (CSFRA)

Date: **5/16/2022**

To: **Affected Parties and Representatives**

Re: **Notice of Hearing Officer Written Decision**

Property Address: 1802 Higdon #2

Petition Number: 21220008

Communications and submissions during the COVID-19 Pandemic: To the extent practicable, all communications, submissions and notices shall be sent via email or other electronic means.

The Hearing on the above *Tenant Petition B for Downward Adjustment of Rent for Failure to Maintain Habitable Premises* was held on *April 20, 2022*. The Hearing Record was subsequently closed *the same day*, on *April 20, 2022*. Please find enclosed a copy of the Hearing Officer's Written Decision concerning said Petition.

Pursuant to Rental Housing Committee Regulations, Chapter 5(H)(1), any party to a petition may appeal the Decision by submitting a Request to Appeal to the Rental Housing Committee. A Request for Appeal Form can be found by clicking on "Forms and Notices" in the left menu of mountainview.gov/rentstabilization and is also attached.

If no party requests an appeal within ten (10) days after service of the Decision (the date of this Notice), the Decision will be considered final.

Should you have any questions, you may contact Ms. Black at (650) 903-6149 or patricia.black@mountainview.gov.

Sincerely,

Patricia Black

Patricia L. Black

Senior Management Analyst
Rent Stabilization Program
Community Development Department, City of Mountain View

Attachments included:
Hearing Officer Written Decision
Proof of Service
Appeal Request Form

City of Mountain View

租金稳定计划

(650) 903-6149 | mvrent@mountainview.gov
Mountainview.gov/rentstabilization

听证官对要求根据社区稳定和公平租金法案（CSFRA）规定的租金调整的申请作出书面决定的通知

日期: **5/16/2022**

拟: **受影响的缔约方和代表**

关于: **听证官书面决定的通知**

物业地址: 1802 Higdon #2

请愿书编号: 21220008

COVID-19 大流行期间的通讯和提交文件: 在可行的范围内，所有通讯、提交和通知都应通过电子邮件或其他电子方式发送.

关于上述租户申请 B 因未保持适宜居住的房屋而向下调整租金的听证会于 2022 年 4 月 20 日举行。听证会记录随后在同一天，即 2022 年 4 月 20 日结束。随信附上听证官关于上述申请的书面决定.

根据《出租房屋委员会条例》第 5(H)(1)章，申请的任何一方都可以通过向出租房屋委员会提交上诉申请来对决定进行上诉。上诉请求表可以通过点击 mountainview.gov/rentstabilization 左侧菜单中的 "表格和通知 "找到，同时也附在后面.

如果在决定书送达后的十天内（本通知书的日期）没有任何一方要求上诉，该决定将被视为最终决定.

如果您有任何问题，可致电（650）903-6149 或 patricia.black@mountainview.gov，联系布莱克女士.

真诚的,

Patricia Black

Patricia L. Black

高级管理分析师
租金稳定计划
山景城社区发展部

包括的附件:
听证官书面决定
服务证明
上诉请求表

CITY OF MOUNTAIN VIEW

HEARING OFFICER DECISION PURSUANT TO

THE COMMUNITY STABILIZATION AND FAIR RENT ACT ("CSFRA")

Rental Housing Committee Case No.:	21220008
Address and Unit(s) of Rental Property:	1802 Higdon Avenue, Unit #2 Mountain View, CA 94041
Petitioner Tenant Name(s):	Iris Martinez
Respondent Landlord Name(s):	Hong ("Jane") Xiang, Wei Deng
Date(s) of Hearing:	April 20, 2022
Place of Hearing:	Zoom
Date Hearing Record Closed:	April 20, 2022
Date of Decision:	May 11, 2022
Date of Mailing:	See attached Proof of Service.
Hearing Officer:	Barbara M. Anscher

I. STATEMENT OF THE CASE (PROCEDURAL HISTORY)

1. On March 3, 2022, Tenant Iris Martinez ("Tenant" or "Petitioner") filed with the City of Mountain View (the "City") a Petition for a downward rent adjustment, specifically Petition B: Failure to Maintain Habitable Premises or Decrease in Housing Services or Maintenance as Defined by the CSFRA (the "Petition") for 1802 Higdon Avenue, Unit #2 (the "Affected Unit"), which was accepted by the City Rent Stabilization Program (the "City").
2. Respondents Hong ("Jane") Xiang and Wei Deng ("Landlords" or "Respondents," collectively; "Respondent Ms. Xiang" or "Respondent Mr. Deng," individually) sent a Response to the Petition in the form of three emails, two on March 7, 2022 and one on March 21, 2022 (the "Response").

3. The Hearing Officer ordered an inspection of the Affected Unit and the entire property at 1802 Higdon Avenue (the "Property") by the City of Mountain View Fire and Environmental Protection Division, and said inspection took place on March 15, 2022, with the Hearing Officer in attendance. The inspection was conducted by Jim Olson, Multi-Family Housing Inspector (the "Building Inspector"), who produced an Inspection Report dated March 15, 2022.
4. Hearing details were emailed to the parties on March 14, 2022, setting the hearing date on this matter for April 21, 2022 at 4:00 p.m. Details regarding a pre-hearing meeting for April 7, 2022 at 4:00 p.m. were also emailed on March 14, 2022.
5. A pre-hearing telephonic conference was held on April 7, 2022, as noticed.
6. On April 7, 2022, after the pre-hearing conference, the Hearing Officer made a written request (the "Request") to the Petitioner for documents and other information to be filed by April 12, 2022. The Hearing Officer indicated in the Request that if Respondent Landlords intended to file documents to support their Response, it was suggested that they do so by April 12, 2022. A Notice of the Hearing Officer's Pre-Hearing Requests and a Notice of Hearing was served electronically on the parties by the City on April 8, 2022.
7. Petitioner submitted additional documents to the City electronically on April 7, 2022, in response to the Hearing Officer's Request. Respondents submitted additional documentation on April 12, 2022, as requested.
8. At the pre-hearing conference, Petitioner requested a Spanish interpreter for one of her witnesses and Respondents requested a Mandarin interpreter. The date and time for the Hearing was moved to April 20, 2022 at 3:30 p.m. in order to accommodate the interpreters' schedules, and the City provided notice thereof.
9. A Hearing was held on April 20, 2022 at 3:30 p.m.
10. The Record was closed after the Hearing on April 20, 2022 at 7:00 p.m.

II. PARTIES WHO ATTENDED THE HEARING

The following parties attended the Hearing: Petitioner Iris Martinez and Respondents Hong "Jane" Xiang and Wei Deng.

For the City, Patricia Black, Senior Management Analyst, Anky Van Deursen, CSFRA Rent Stabilization Program Manager, and Joann Pham, Analyst I, were present.

The City also provided the following interpreters: Eileen Li and Ana Jimenez.

III. WITNESSES

The following persons, duly sworn, testified at the Hearing and presented the following testimony:

Iris Martinez

Petitioner testified that there was a cockroach problem in the Affected Unit in the fall of 2018. She pulled out the refrigerator to investigate and discovered a crack in the wall running from

the top to the bottom. She emailed her then-Landlord, Haibo Chi ("Mr. Chi"), who came to look at the crack. He said it was not a problem and left it as it was. Petitioner patched up the crack herself by scraping the wall and calking it, and that seemed to take care of the cockroach problem.

Petitioner also testified that there had been water damage in the Affected Unit sometime prior to 2001 when the upstairs neighbors' bathroom flooded into the hallway, bathroom and living room of the Affected Unit and damaged the carpet. She said that cracks in the ceiling formed because water was coming out of the ceiling in the hallway and also through the light fixtures. The carpet was never replaced because in order to do so, the then-landlord required that the tenants move their furniture out of the Affected Unit on their own. Petitioner said that her father had just had surgery and could not move the furniture, and she was just a child, so she could not help, and thus the carpet remained as it was. Petitioner testified that she told Respondent Ms. Xiang about the flood and the damage to the carpet.

Petitioner stated that on March 9, 2018, Mr. Chi told Petitioner that she could replace the mirror in the bathroom. When she did that, she discovered a large hole which had been covered with cardboard. She left the hole and replaced the mirror.

On November 23, 2021, Petitioner had a conversation with Respondents outside the Affected Unit. They discussed the popcorn ceiling in the Affected Unit. Respondent Ms. Xiang stated at that time that she was concerned for the Tenants in the building because of health hazards from the ceiling. Respondent Ms. Xiang told Petitioner that she could not repair the ceiling while Tenants lived in the Rental Units and that the Tenants would have to leave for the repairs. Petitioner suggested that she could move to the apartment upstairs while the ceiling was being repaired, but Respondent Ms. Xiang refused.

Petitioner also testified that on November 23, 2021, she asked Respondents if she could have a new roommate to replace the roommates who had lived with her in the Affected Unit from July 2018 through October 2021. She also testified that she emailed Respondents sometime thereafter about having a roommate. Petitioner testified that she had lived with her parents in the Affected Unit until they left the country in the summer of 2018. She then had one roommate in the Affected Unit from July 2018 until the end of July 2021. Then she had another person subletting from her from July 2021 through October 2021. She said that the roommates would pay her their share (half of the rent) and then she would send the payment by Zelle to Mr. Chi. She stated that every time there was a rent increase, she and her roommate split it equally. She said that Mr. Chi acknowledged verbally that Petitioner had roommates. Petitioner testified that Respondents refused to allow her to have a roommate because Petitioner was the only person named on the lease.

Petitioner stated that during the meeting on November 23, Respondent Ms. Xiang told her that there were nicer Rental Units available elsewhere and that she did not need a two-bedroom apartment, and Respondent Ms. Xiang used her phone to show Petitioner apartment listings for

smaller apartments. Petitioner said that at that time, she felt that Respondent Ms. Xiang was targeting her because she has low rent and that Respondents were trying to get her to move out.

Petitioner testified that she emailed Mr. Chi about mold near the bathtub and that he painted over it. She said that on December 7, 2021, she notified Respondents about a recurrence of the same problem: the wall in the bathroom next to the bathtub had bubbling and there was visible mold. Respondent Ms. Xiang responded that same day and brought mold spray. She sprayed the mold and rubbed it and it disappeared; however, Petitioner said that this did not resolve the issue of the wall bubbling. Petitioner said the Respondents' contractor came thereafter and covered the hole behind the mirror, patched the wall next to the bathtub, and painted the bathroom. Petitioner believes that this did not remediate the mold but merely covered it up. She said that the contractor did not even sand the wall after he patched it, leaving rough spots.

Petitioner testified that on December 7, 2021 when Respondent Ms. Xiang came over to deal with the mold, Petitioner told her that the floor was "squishy." Respondent Ms. Xiang responded that she would have to raise the rent if she were to fix the floor. She also said that Petitioner would have to move out for the repairs and that she should look for different housing. At that point, Petitioner decided to talk to someone at the City Rent Stabilization Program to see what her rights were.

Petitioner stated that she had covered the bathroom floor with linoleum tiles a few years ago, and she removed the tiles so that Respondents could see what the floor beneath looked like. She texted Respondent Ms. Xiang pictures of the current state of the floor. Petitioner asked by text if Respondent Ms. Xiang had talked to her contractor about the floor, wanting to know if the contractor said anything about the state of the floor since he had worked in the bathroom for two days. Respondent Ms. Xiang responded that the contractor did not know what the problem was and would have to open up the floor to find out. In a second text exchange, Respondent Ms. Xiang said her contractor was too busy to deal with it. Petitioner said that she felt that Respondent Ms. Xiang was not taking the problem seriously. Petitioner subsequently asked Bob Earle, a contractor, to come by and look at the floor.

Petitioner stated that she felt as though the needed repairs were never going to get done because the problems were just being passed from one Landlord to another without anyone ever taking them seriously. She said that she felt bad because the new Landlords would have to deal with the repair issues, but after years of being ignored by Landlords, she felt there was no other way to get the repairs done.

Petitioner testified that her father has been staying with her since March 2022 while he is undergoing medical treatment at Stanford Hospital. She said that Respondent Ms. Xiang told her she was doing her a favor to allow her father to be there. Petitioner stated that she felt that this was going to be held against her.

Petitioner testified that the prior landlord, Mr. Chi, never did any repairs, so she took it upon herself to fix things. She said that the doors to the kitchen cabinets would get stuck from all the grease and dirt on them, so she removed them. She said that Mr. Chi saw that the doors had been removed and he never said anything. She also said that she had attempted to repair a part of the ceiling where there were cracks and had peeled off the outer layer until she learned that it could be a health hazard, so she stopped. Petitioner said that the only area in the Affected Unit where she peeled the ceiling was in the living room and that the other damaged areas were from the flood in the unit above the Affected Unit.

Petitioner also stated that the toilet was running continuously. She notified Respondents about the problem and they came to look at it the same day. They took a part out and it was no longer as noisy as it had been. Respondents asked her if the noise bothered her and she said that it did not. Later the sound increased to what it had been before, and it bothered her. She decided not to talk to Respondents about it because she had already talked to the City about filing a Petition. Her father subsequently repaired the toilet.

Petitioner also testified that on February 19,2022, she responded to a text message from Respondent Ms. Xiang asking to look at the bathroom floor that she would only be available that evening after 7:00 p.m. but that Respondent Ms. Xiang ignored Petitioner's response and came over at 2:00 p.m. She stated that when Respondent Ms. Xiang asked again on February 28, 2022 to inspect the floor, Petitioner had already talked to an employee of the Rent Stabilization Program who told her she could wait until after the inspection by the City to let Respondents in, so she did not respond to Respondents' request. Petitioner subsequently filed the Petition on March 3, 2022.

Sarah Becca Castro

Ms. Castro testified that she was Petitioner's roommate between July 2018 and July 2021. She stated that the then-landlord, Mr. Chi, knew who she was and that she lived in the Affected Unit even though her name was not on the lease. She also said that the neighbors knew that she lived there.

Ms. Castro also stated that she and Petitioner did a lot of work on the Affected Unit themselves. She said that they removed the kitchen cabinet doors because the hinges were filthy and grease-covered and that they had the intention of replacing the hinges, but buying new hinges was too expensive, so they just left the doors off. She said that they also rented carpet cleaners and cleaned the carpet. She stated that Mr. Chi knew about the removal of the cabinet doors.

Ms. Castro testified that she hired a licensed electrician to add an electrical outlet so that she could mount her television on the wall and plug it in. She said that Mr. Chi saw the "floating t.v." and the new outlet and did not say anything.

Upon cross-examination by Respondents, Ms. Castro stated that she and Petitioner split the rent equally between them. She said that she initially paid rent to Petitioner in cash but later switched to Zelle. She said that she moved out around July 10, 2021 and turned the keys in on July 18, 2021.

Bob Earle

Mr. Earle testified that he has been a licensed contractor since 1986 and has worked in the construction trade since 1978. He does business as Bob Earle Construction. He stated that his work is exclusively in residential construction and includes remodeling, additions, repairs and water damage work. He said that he has extensive experience in water damage remediation.

Mr. Earle testified that he inspected the bathroom in the Affected Unit in March 2022 and concluded that this is one of the worst cases of water damage that he has seen. He said that the damage in the floor support structure is the combined effect of water damage and mold. He said that the mold is a symptom or sign of moisture intrusion. He believes that in order to be as bad as it is, the problem has most likely been there for years.

Mr. Earle stated that this is a very serious problem which is rotting the subfloor and the floor joists, which are the framing structure that supports the floor. He said that he knows the floor joists are rotten because "it feels like you're walking on a trampoline" when walking on the bathroom floor. Mr. Earle testified that the condition is dangerous and that the vinyl flooring above the subfloor is what is "preventing anybody from plunging through the floor" into the crawlspace.

Mr. Earle said that the cause of the leak would not be discoverable until the floor is opened up. It is necessary to keep tracing the damage until one gets to undamaged material. At that point, it can be determined if the leak is from the apartment above or if it is a leak in the supply line. He testified that in order to remedy the problem, the bathroom will have to be gutted and all fixtures removed.

On cross-examination, Mr. Earle testified that he did not believe that the tiles Petitioner put on the floor could have caused or contributed to the problem. He said that the cause would be a leak from underneath or from the unit above and that it had been going on for many years. He said that if the Property were built in the 1950's or 1960's, it most likely has galvanized piping which has a lifespan of 30 to 40 years. After that, the piping corrodes and develops pin leaks.

Arnulfo Martinez

Mr. Martinez testified that he is Petitioner's father and that he lived in the Affected Unit when she was a child. He said that he does not recall exactly when the flood from the Rental Unit above the Affected Unit happened, but it was during Petitioner's childhood, when the second owner owned the Property, and that there were two times when it flooded. He stated that the first time was on a weekend at night, and the water came down during the entire night. At that time, the floor in the bedroom flooded. The second time was the following weekend, and at

that time, water poured from the ceiling lights, the heater, and also a small square of the ceiling in the bathroom.

Mr. Martinez stated that recently Petitioner sent him photos of smoke in the bathroom, in the bathtub and on the walls. He said he believed it was caused by an "electrical incident," probably due to water leaks in the bathroom.

Mr. Martinez testified that after the water leak incident, the then-owners' sons examined the Affected Unit and saw water on the walls. Mr. Martinez stated that this was not normal water but "dirty water," meaning sewage. He said that all the then-Landlord did was paint part of the bathroom ceiling, but that you could still see the water damage. Mr. Martinez said that he cleaned the carpet on his own, using a vacuum carpet cleaner to dry it off.

On cross-examination, Mr. Martinez said that he thinks the then-Landlord repaired the upstairs unit by replacing the toilet and ripping out the carpet. In the Affected Unit, he only painted a small area of the bathroom ceiling where the "dirty water" was coming from. He also said that he was afraid that if he expressed his opinion to the then-owner that the repairs to the Affected Unit were not sufficient, he would be evicted.

Hong "Jane" Xiang and Wei Deng

Respondents testified that there was no reason for them to be responsible for other Landlords' neglect of the Property. They stated that they purchased the Property on November 22, 2021 and that all the problems Petitioner is complaining of existed before they owned the Property. They said that they did not know anything about any of the problems and that they sympathize with Petitioner, but they cannot do anything about the existence of the problems.

Respondents testified that they had not raised the Rent since they took possession of the Property. They also testified that since Petitioner did not complain about the problems to the prior Landlord, she is estopped from complaining now. They said that when Petitioner signed the lease with Mr. Chi in 2018, she ratified the condition of the Affected Unit. Respondents stated that there is no written lease between them and Petitioner, but they agreed to adopt the terms of the Lease that Petitioner signed with Mr. Chi in 2018.

Respondents testified that Petitioner's living conditions have not changed since November 22, 2021 and that if there were any changes, they have been an improvement. They stated that they removed the mold on the wall in the bathroom, fixed the hole in the wall, and painted the bathroom. The also said that on January 9, 2022, they repaired a common water heater that had been malfunctioning for a long time, installed a security camera, and installed a new washing machine in the laundry room.

Respondents stated that the only problem with the Affected Unit that has arisen since they took ownership of the Property was the toilet issue. They testified that the toilet had a leak from the tank to the bowl but not to the floor. The part that was causing the problem was no longer available due to the age of the toilet. Respondents testified that since Petitioner said

the noise was not bothering her, there was no reason to repair it because Respondents pay the water bill and they were not troubled by a small leak. They stated that this was not an unlivable condition and that they had fixed it in a timely manner.

Upon questioning, Respondents testified that the Rent for the Rental Units on the Property are as follows: Unit #2 (the Affected Unit) is $1457 per month; Unit #1 is $1595; Unit #3 is approximately $1550; and Unit #4, the Rental Unit above the Affected Unit, is an Airbnb rental for which the rent is $130 to $150 per night. Respondent has plans to convert the garage into an auxiliary dwelling unit, but has not begun work on that.

Respondents testified that on the first day they met Petitioner, she told them about the bathroom floor, but they thought it was a cosmetic problem. They thought she just wanted the tiles on the floor changed because you could see black between the tiles. Respondents testified that Petitioner mentioned a "squishy floor," but Respondents "[are] not a professional," so they did not know what that meant. Respondents stated that they asked their contractor about the floor and he said he would have to open up the floor to identify the problem. Respondents said that they were not willing to rip out the entire floor just to figure out what is going on. They also stated that they had no chance to figure out what was going on with the floor before Petitioner filed the Petition. Respondents testified that the first time they saw photos of the floor was February 8, 2022, which was after Petitioner removed the tiles. On February 15, 2022, Respondent Ms. Xiang told Petitioner that it would be difficult to find a contractor. On February 19, 2022, Respondent Ms. Xiang attempted to schedule an appointment with Petitioner, but Petitioner said she was available after 7:00 p.m. and Ms. Xiang wanted to have the appointment at 2:00 p.m. and "didn't pay attention to 7:00 p.m." Respondents testified that Petitioner also was not available on February 28 and March 2, 2022. Upon questioning, Respondents said that they still did not have a contractor to do the work and that they applied for a permit on their own.

Respondents testified that Respondent Ms. Xiang mentioned to Petitioner when they first met inside the Affected Unit that she thought the peeling popcorn ceiling could be dangerous. Respondent Ms. Xiang then offered to show nearby apartments to Petitioner on her phone out of kindness because Petitioner would need to move out for the ceiling to be repaired and she thought it would be helpful to see other possible Rental Units.

Respondents said that Petitioner never told Respondents about the carpet. Respondents said that they believe that the carpet was replaced and is newer than any other carpet on the Property. However, they admitted that they do not know the age of the carpet or when it was replaced, only that the Building Inspector said the carpet was newer than the other carpets on the Property.

Respondents testified that they did receive an inspection report prior to purchasing the Property and that they did a walkthrough also prior to purchase.

Respondents said that they do not allow subleasing because they believe that Petitioner is using their property to make money, i.e, that Petitioner was charging her roommates more than half of the rent. They stated that Petitioner is the only person on the Lease and thus the only person who can live in the Affected Unit. If anyone else is going to live there, it will be subject to a rent increase. Respondents said that while the Lease does not allow pets yet they allow one of the tenants on the Property to have a pet, this is different because the pet agreement is between them and the pet owner and does not apply to Petitioner.

Respondents testified that the Inspection Report said that three locations of the ceiling needed to be repaired. They said that the cracked ceiling near the bathroom could be caused by water damage, but the other locations are not near a water source, so they could not be caused by water damage. They believe Petitioner caused those two problems.

Respondents testified that the estoppel certificate that Petitioner signed as part of the sale of the Property said that the Lease was in full force and effect, that there were no verbal or other written agreements between Mr. Chi and Petitioner, that all obligations of Landlord were fully performed and that Landlord was not in default under the Lease. Thus, Respondents said that because Petitioner signed the estoppel certificate, she is estopped from asking for a rent reduction due to habitability issues.

Respondents also said that they wanted it on the record that the kitchen cabinet doors were missing and that they did not want Petitioner to claim later on that it was Respondents' fault. They also said that there were locks on the bedroom doors, and they want a copy of the keys, and that they want the Building Inspector to inspect the power outlet that was added in the Affected Unit.

Respondents also testified that under the Lease agreement, Petitioner was required to report damage to the Affected Unit promptly. They also said the Lease provides that Landlord is responsible for repairs unless caused by the negligence of Tenant and that if the negligence of Tenant caused the damages, Tenant is responsible for the cost of the repairs. Respondents also testified that the water damage happened a long time ago and that Petitioner did not bring the issue to the City earlier for resolution, so she thereby breached the Lease.

Respondents also stated that the Lease in paragraph 5 says that only Petitioner is living in the Affected Unit and that any changes require consent of the Landlord and may require an adjustment in rent. Respondents testified that Petitioner emailed them about adding a roommate, and Respondents replied that she could add a roommate but that Respondents would raise the rent. Respondents said that while Petitioner mentions a medical condition requiring her to have a roommate in her Petition, Respondents have never had any notice of that. Respondents said that if that is the case, Petitioner would need to provide medical records proving that she needs an accommodation.

Respondents testified that Petitioner recorded their conversations on two occasions without Respondents' knowledge or consent and that they were shocked by that. Respondents said

that they had only been kind and generous to Petitioner, offering her a part-time job for extra money and allowing her father to stay there when the law says that she can only have a guest for two weeks within a six-month period.

Martha Manriquez

Ms. Manriquez testified that she is a Tenant on the Property and that Respondents respond quickly when asked for repairs. She said that she had a broken stove and that Mr. Chi did nothing about it but that Respondents replaced it within a few days of her request for a new stove. Ms. Manriquez also testified that Respondents replaced light switches, the hot water heater, which had not worked properly for five years, installed lighting in the parking area, repaired the lighting in the laundry room, and fixed the washing machine.

Ms. Manriquez also confirmed that Petitioner had a roommate.

IV. EVIDENCE

The following documents were submitted prior to the hearing and marked and admitted into evidence without objection:

Hearing Officer's Exhibits

Exhibit #1: City of Mountain View Fire and Environmental Protection Division Inspection Report for 1802 Higdon Avenue, dated 3/15/22

Exhibit #2: Notice of Hearing Officer Written Order and Summary of Pre-Hearing Telephone Conference and Notice of Hearing of Petition Requesting Adjustment of Rent As Defined by the Community Stabilization and Fair Rent Act (CSFRA), dated 4/8/2022

Exhibit #3: Hearing Officer Requests Pursuant to The RHC Regulations Chap. 5(C)(4), dated April 7, 2022 and Proof of Service, dated April 8, 2022

Petitioner's Exhibits

Exhibit #1: Petition B: Failure to Maintain Habitable Premises or Decrease in Housing Services or Maintenance as Defined By the Community Stabilization and Fair Rent Act (CSFRA), dated 3/3/2022, with attached Worksheet 1—Rent Increases and Worksheet 2 – Failure to Maintain Habitable Premises

Exhibit #2: Withdrawn

Exhibit #3: Attachment to Petition B

Exhibit #4: Residential Lease Agreement between Haibo Chi, Xiaoqui An, and Iris Martinez, dated August 31, 2018

Exhibit #5: Text messages between Haibo Chi and Iris Martinez, dated November 19, 2019

Respondent's Exhibits

Exhibit #1: Email from Jane Xiang to Mountain View Rent Stabilization Program re: Petition, dated March 7, 2022 at 10:08 a.m.

Exhibit #2: Email from Jane Xiang to Mountain View Rent Stabilization Program re: Petition, dated March 7, 2022 at 4:56 p.m.

Exhibit #3: Email from Jane Xiang cc'd to Mountain View Rent Stabilization Program re: 1802 Higdon Multi-Family Housing report, dated March 21, 2022 at 12:25 a.m.

Exhibit #4: Email from Haibo Chi to Iris Martinez re: 2020 Annual Rent adjustment, dated 7/31/2020

Exhibit #5: CSFRA Petition Response Notice, undated

Exhibit #6: Document titled "Additional INFO for Petition Response Notice," undated

Exhibit #7: CSFRA Petition Response Notice, undated, version 2

Exhibit #8: Email from Haibo Chi to Iris Martinez, dated 8/1 (no year)

Exhibit #9: Tenant Estoppel Certificate from Iris Martinez, dated 10/21/2021

Exhibit #10: Residential Lease Agreement between Haibo Chi, Xiaoqui An, and Iris Martinez, dated August 31, 2018

Exhibit #11: Notice of Supplemental Assessment for 1802 Higdon, dated February 4, 2022

Exhibit #12: Email from Jane Xiang to Mountain View Rent Stabilization Program re: a witness, dated April 12, 2022

V. ISSUES PRESENTED

1. Whether Petitioner is entitled to a downward adjustment of rent for failure to maintain habitable premises due to the following alleged conditions: (a) unstable bathroom floor; (b) toilet running continuously; (c) water damage to ceiling in bedroom and living room; (d) mold on bathroom and kitchen walls; (d) water-damaged carpet not replaced.

2. Whether Respondent has unlawfully withheld Petitioner's right to sublet to a roommate.

VI. FINDINGS OF FACT SUPPORTING THIS DECISION

1. Petitioner has lived in the Affected Unit since childhood. Her parents were the original Tenants on the rental agreement which was dated January 2001. The Affected Unit is a two-bedroom unit, and the Property contains four Rental Units.

2. By residential lease agreement dated August 31, 2018 (the "2018 Lease"), the former landlord, Mr. Chi, listed Petitioner as Tenant; her parents had left the country around July 2018.
3. From July 2018 through October 2021, Petitioner lived in the Affected Unit with a roommate. One roommate, Ms. Castro, sublet from Petitioner from July 2018 to July 18, 2021, and another roommate took Ms. Castro's place from the end of July 2021 through October 2021. The prior Landlord, Mr. Chi, was aware of the roommates, as evidenced by text messages referring to them; however, there was no actual written or oral agreement specifically about the roommates.
4. Respondents purchased the Property on November 22, 2021.
5. Prior to the time of purchase of the Property, Respondents received an inspection report from Mr. Chi and did a walkthrough. Respondents also received an estoppel certificate signed by Petitioner and dated October 21, 2021. The estoppel certificate stated that "[t]here are no verbal or written agreements or understandings between Landlord and Tenant with respect to the Premises" and that "Tenant has not assigned, transferred or hypothecated its interest under the Lease." Additionally, it says that "all obligations of Landlord under the Lease have been fully performed."
6. There is no written lease agreement between Petitioner and Respondents; however, they have been relying on the terms of the 2018 Lease. The current rent of the Affected Unit is $1457.00 per month. It was last increased by Mr. Chi on September 1, 2020, from $1428.00 per month. Respondents have not increased the Rent.
7. The 2018 Lease states that Petitioner is the only person residing in the Affected Unit and that "any change in occupancy will require written consent of the Landlord and may be subject to an adjustment in the amount of the rent." It also says that "Tenant agrees not to sub-lease the Leased Premises without the Landlord's written permission." The 2018 Lease says that a 2-bedroom Rental Unit is limited to five occupants. The 2018 Lease additionally states that "The Tenant acknowledges that the Tenant has inspected the Leased Premises and at the commencement of this Lease Agreement, the interior and exterior of the Leased Premises, as well as all equipment and any appliances are found to be in an acceptable condition and in good working order."
8. The Rent for the other Rental Units on the Property is as follows: Unit #1--$1595.00; Unit #3—approximately $1550.00. Unit #4, which is directly above the Affected Unit, is an Airbnb rental for which the rent is between $130.00 and $150.00 per night. Unit #4 was recently completely remodeled.
9. Sometime prior to 2010, sewage seeped from Unit #4, the Rental Unit above the Affected Unit, into the Affected Unit and caused damage to the ceiling in the bathroom, the living room and one of the bedrooms. It also seeped down the walls and damaged the carpet. The then-landlord did not remediate the problem because the Tenants were unable to move the furniture out and to find a place to live while the carpet was being replaced, so instead Petitioner's father cleaned the carpet as best he could.

10. There is a large, bulging seam in the living room ceiling and cracks in other parts of the ceiling in one bedroom and in the bathroom. Petitioner admitted that she peeled off a part of the popcorn ceiling because it had cracks in it but stopped when she found out it could be a health hazard.
11. Sometime prior to August 6, 2018, mold developed on the bathroom wall and on the kitchen wall that is shared with the bathroom. Petitioner informed her former landlord, Mr. Chi, of the problem, but nothing was done, so she attempted to remedy the problem herself.
12. On November 23, 2021, Petitioner talked to the Respondents about fixing the ceiling, which it is believed has friable asbestos, and she was told that she would have to pay higher rent if she wanted things to be repaired. They also told Petitioner that she would have to move out in order to repair the ceiling.
13. On November 23, 2021, after Petitioner and Respondents discussed the ceiling, Respondent Ms. Xiang started showing Petitioner photos on her phone of other Rental Units nearby that Petitioner could rent. Petitioner suggested that she could move into Unit #4, the Airbnb unit, while Respondents repaired the Affected Unit, but Respondents refused.
14. Also on November 23, 2021, and on December 7, 2021, Petitioner requested that she be allowed to have a roommate, and Respondents replied that she could not have a roommate without a rent increase because of the wear and tear on the Affected Unit that another occupant would cause. Respondent Ms. Xiang also testified and wrote in Respondents' Response to the Petition that she received an email from Petitioner requesting that she be allowed to have a sublessee and that Ms. Xiang replied that Petitioner could have a sublessee if she paid more rent.
15. By email of December 1, 2021, Petitioner informed Respondents about the wall next to the bathtub having mold as well as the kitchen wall on the other side being damaged. Also around that same time, Petitioner discussed with Respondents the damaged ceiling and the bathroom floor being "squishy".
16. In response to Petitioner's complaints, on December 7, 2021, Respondent Ms. Xiang brought mold spray and told Petitioner to use that on the bathroom wall. Respondent Ms. Xiang went into the bathroom and showed the Petitioner how to use the spray.
17. On December 8, 2021, Respondents brought a repair person to the Affected Unit to check the bathroom. The repair person said he could not tell with certainty what was wrong with the flooring and that the floor would have to be opened up in order to diagnose the problem. At that time, Petitioner also showed Respondents a hole in the wall of the bathroom behind the mirror.
18. On December 30, 2021, Respondents' contractor patched the bathroom wall to eliminate the hole, and, on December 31, 2021, repainted the bathroom. Respondents did not address the concern about the bathroom floor.
19. On January 27, 2022, Petitioner texted a video to Respondents about the toilet running continuously. It had started doing so on January 20, 2022. Respondents went by the

Affected Unit to look at it and told Petitioner that there was a part that needed to be replaced but that they could not replace it because of the age of the toilet. Respondents said that if the noise of the toilet did not bother her, it was "livable," and they would leave it as-is.

20. On February 8, 2022, Petitioner peeled off tile squares that she had placed on the bathroom floor several years ago and which covered old linoleum. Petitioner texted a photo of the old flooring to Respondents, stating that the floor "desperately needs to be replaced as I stated before."
21. On February 15, 2022, Petitioner texted Respondents about the bathroom floor, asking whether Respondents had discussed it with their contractor. Respondents said their contractor was too busy to deal with it and that any contractor she contacted would not want such a small project.
22. On February 19, 2022, Respondent Ms. Xiang texted Petitioner to ask if she would be available the following Monday for her to look at the bathroom floor "to try to figure out to remove the stains." Petitioner responded that she would be available after 7:00 p.m., and she stated "The residue stains are not a problem. Those I can remove myself. It is the grey mold, the mold by the tub and the fact that the floor bounces and is unsteady that I need you to help with." Respondent Ms. Xiang went by the Affected Unit on the following Monday at 2:00 p.m., and Petitioner was not there.
23. On March 2, 2022, Respondent Ms. Xiang sent a text message to Petitioner saying that she had been informed that there was to be an inspection by the City and "[b]efore that, [m]y husband and I would like to inspect first to see if there is anything we can improve. Let me know what time is good for you." Petitioner responded, "I was told I can refuse to have anyone come in until the inspectors come. I rather take care of it through the city. I'd rather wait for them to tell me what to do next. I don't want to say or do the wrong thing." Respondent Ms. Xiang replied, "Sure! That's your right!"
24. On March 3, 2022, Petitioner filed the Petition.
25. A Multi-Family Housing Inspector from the City of Mountain View, James Olson (the "Building Inspector") inspected the Property on March 15, 2022. The Inspection Report produced subsequent to the inspection cites 12 Code violations for the Property.
26. The Inspection Report states that the Affected Unit violates MFH-B05 due to violation of California Building Code section 3405; specifically the Report states: "Obtain the required building permits to repair the bathroom floor due to obvious signs of water damage that has caused the sub-floor to become unstable and will require the existing flooring, vanity and toilet be removed to replace the damaged sub-floor, the bathtub may also need to be replaced during these repair[s]."
27. The Inspection Report states that the Affected Unit also violates MFH-B05 and CBC section 3405 because "Ceiling shows water damage in the left hand bedroom and living room," and requires the Respondents to "locate the cause and repair the ceiling including patching and painting."

28. The Inspection Report states that the Affected Unit is in violation of MFH-P11 and International Plumbing and Mechanical Code section 504.1 because "Bathroom sink failed to drain properly," and the Report states that "this must be addressed before the bathroom repair work is started."
29. The Inspection Report also notes that the Rental Unit above the Affected Unit had been remodeled without permits.
30. Petitioner's expert witness' testimony was consistent with the Inspection Report in that the expert stated that the subfloor and floor supports had rotted due to water damage and that it was a safety issue because the only thing keeping occupants from falling through the floor was the old linoleum.

VI. DISCUSSION

Bathroom

1. Subfloor

The Building Inspector's Report requires the Respondent to "obtain the required building permits to repair the bathroom floor due to obvious signs of water damage that has caused the sub-floor to become unstable and will require the existing flooring, vanity and toilet be removed to replace the damaged sub-floor[;] the bathtub may also need to be replaced during these repair[s]." This is consistent with the testimony of Petitioner's expert witness, Bob Earle, who stated that the floor in the bathroom is so rotted that it feels like one is walking on a trampoline when one crosses it. Mr. Earle, like the Building Inspector, concluded that the problem was caused by water damage, and would require extensive repairs.

The Building Inspector cited to MFH-B05 (rules addressing Multi-Family Housing), which covers water damage, stating that "[t]he cause shall be identified and corrected and all damaged surfaces restored to their original condition." He also cited to California Building Code section 3405. Section 3405A.1 states that "[b]uildings and structures, and parts thereof, shall be repaired in compliance with Section 3405A and 3401A.2." Section 3401A.2 states that "[b]uildings and structures, and parts thereof, shall be maintained in a safe and sanitary condition…to determine compliance with this section, building officials shall have the authority to require a building or structure to be reinspected." The Inspector's citation to these Building Code provisions clearly raises safety as an issue. This is also consistent with Mr. Earle's testimony that the condition of the floor was unsafe; he stated that the only thing keeping Petitioner from falling through the floor was the layer of linoleum over the subfloor, a manifestly unsafe condition.

CSFRA Section 1710(b)(1) states that "Failure to maintain a Rental Unit in compliance with governing health and safety and building codes, including but not limited to Civil Code Section 1941.1 et seq. and Health and Safety Code Sections 17920.3 and 17920.10, constitutes an increase in Rent. A Tenant may file a Petition with the Committee to adjust the Rent downward based on a loss in rental value attributable to the Landlord's failure to maintain the Rental Unit

in habitable condition." The Respondent has been cited by the City for not maintaining the Rental Unit as required by the Building Code, which falls squarely within section 1710(b)(1).

Additionally, California Civil Code section 1941 states that "[t]he lessor of a building intended for the occupation of human beings must…put it into a condition fit for such occupation, and repair all subsequent dilapidations thereof, which render it untenantable." California Civil Code section 1941.1(a) states that a "dwelling shall be deemed untenantable if it substantially lacks any of the following affirmative standard characteristics…(8) floors…maintained in good repair." Because the bathroom subfloor is in an unstable and unsafe condition, the Affected Unit falls within the ambit of Section 1941.1, a statute cited specifically by Section 1710(b)(1) of the CSFRA. The Affected Unit has not been maintained in compliance with governing health and safety codes, thus again bringing it squarely within CSFRA Section 1710(b)(1).

California Health and Safety Code section 17920.3 states that a "building or portion thereof in which there exists any of the following conditions to the extent that it endangers life, limb, health, property, safety or welfare of the public or occupants thereof shall be deemed… a substandard building: (b) (2) Defective or deteriorated flooring or floor supports." Clearly, the bathroom in the Affected Unit has significantly deteriorated flooring and floor supports, and thus it falls within the language of Section 17920.3. This failure to maintain the Affected Unit in compliance with this health and safety law brings it within the scope of CSFRA Section 1710(b)(1).

Finally, International Property Maintenance Code section 305.4 states that all "walking surfaces" shall be "maintained in sound condition and in good repair." The bathroom floor in the Affected Unit has not been properly maintained and thus violates this code section also.

Thus, the condition of the subfloor in the bathroom of the Affected Unit violates numerous state statutes that pertain to safety as well as the Building Code, clearly bringing the condition within CSFRA section 1710(b)(1).

Under CSFRA Section 1710(b)(2), a Tenant Petition alleging failure to maintain habitable premises must "demonstrate that the Landlord was provided with reasonable notice and opportunity to correct the conditions that form the basis for the Petition." On December 7, 2021, when Respondent Ms. Xiang went into the bathroom in the Affected Unit to spray the mold, not only did she have constructive notice of the moisture issues in the bathroom and of the condition of the floor, since she had to walk on the floor in order to spray the mold, but she also had actual notice because, as Petitioner testified, she informed Respondent Ms. Xiang during that encounter that the floor was "squishy." Petitioner testified that at that time, Respondent Ms. Xiang responded that she would have to raise the rent if she were to fix the floor. Respondents testified that on the first date that they met with Petitioner, November 23, 2021, Petitioner told them that the floor was "squishy," so by Respondents' own account, they had notice several weeks before the December 7, 2021 visit to the bathroom in the Affected Unit. On February 8, 2022, Petitioner sent a text message to Respondent Ms. Xiang with a

photo of the floor with the tiles removed. On February 15, Petitioner asked whether Respondents had talked to their contractor about the floor. Ms. Xiang responded that her contractor was too busy to look at the floor and that all other contractors would probably be too busy also. Respondents testified that when they asked their contractor about the condition of the floor, he told them that he would have to open it up in order to see what the problem was, and they decided not to open the floor. From the testimony, it is reasonable to conclude that this conversation occurred around the time when the contractor painted the bathroom in December 2021. On February 19, Respondent Ms. Xiang asked whether she could come look at the floor the following Monday, to which Petitioner replied that she would be home after 7:00 p.m. Respondent decided to go by at 2:00 p.m. instead, and Petitioner was not there. In the text message of February 19, Petitioner reiterated that she was concerned about the mold in the bathroom and about "the fact that the floor bounces and is unsteady."

By their own testimony, Respondents had actual notice of the problem with the bathroom floor in November 2021.[1] Respondents have yet to have a contractor provide an estimate for repair of the floor. They testified that they obtained a permit for the repairs on their own after the Building Inspector cited them for the dangerous condition. By the time of the Hearing, which occurred over a month after the Inspection, Respondents had ample time to at least begin working on the floor--i.e., to have a contractor come by and provide an estimate--and they had not done so. Petitioner has fulfilled her burden of proving that Respondents had notice of the condition and an opportunity to cure it.

Respondents argued that Petitioner obstructed their efforts to repair the floor before the inspection. In their Reply to the Petition, Respondents stated that on March 2, 2022, after notice was given to Respondents that an inspector from the Multi-Family Housing Program would be inspecting the Affected Unit, they texted Petitioner, asking her to allow them to enter "to inspect first to see if there is anything we can improve." Petitioner texted back "I was told [by the City] I can refuse to have anyone come in until the inspectors come." As discussed above, at that point, Respondents knew or should have known that there was a problem with the floor in the bathroom, and they had made no efforts to repair it prior to being notified about the Inspection, and they have made no real progress post-inspection. The evidence does not support Respondents' assertion that Petitioner obstructed them from repairing the floor. Petitioner did not keep Respondents' contractor from entering to replaster and paint the bathroom in December 2021, and it is likely, given the evidence, that Petitioner would have welcomed Respondents' contractor had he come to look at the floor. Indeed, on February 15, 2022, Petitioner inquired as to when Respondents' contractor would be dealing with the floor, manifesting a desire that the repairs begin. As Respondents are well aware, they could have let their contractor into the Affected Unit after providing required notice to Petitioner, which is what they must have done when the contractor painted the bathroom, because Petitioner was

[1] It is more likely that Respondents had notice of the condition of the floor before they purchased the Property because they testified that they received an inspection report and did a walkthrough of the Property prior to purchase.

not present when he did so. Petitioner's reliance on the City employee who told her she could refuse to allow Respondents to enter until after the Inspection by the Building Inspector was reasonable.

Respondents also argue that they should not be liable for the condition in the bathroom because it existed prior to their purchase of the Property and should have been repaired by the prior Landlord. While Respondents find themselves in the unfortunate position of dealing with what appears to be many years of neglect of the entire Property, nowhere in the CSFRA is a Landlord excused from maintaining their property because the condition existed prior to their purchase of the property. Section 1702(j) of the CSFRA defines a Landlord as "an owner, lessor, sublessor or any other person entitled to receive Rent for the use and occupancy of any Rental Unit, or an agent, representative, predecessor, or successor of any of the foregoing." The CSFRA thus takes a broad scope in its definition of a Landlord, which includes an owner as well as his or her successors. The CSFRA is obviously designed to cover situations in which property changes hands, as in this case, and one cannot absolve oneself of responsibility under the CSFRA by claiming to be the successor of a former owner. Section 1710(b)(2) provides very simply that a Tenant may bring a Petition thereunder for "the Landlord's failure to maintain the Rental Unit in habitable condition." There is nothing in the plain language of the Ordinance that would absolve a Landlord because the lack of habitability began prior to the Landlord's purchase of the Property. Indeed, this would run contrary to the purpose of the CSFRA, which is, among other things, to "promote healthy housing" (Section 1700). Excusing a Landlord from responsibility for maintaining habitability because he or she purchased a building with uninhabitable conditions would condone the perpetuation of slum housing.[2] Caselaw also provides that the fact that unsafe or unhealthy conditions existed prior to purchase does not absolve a subsequent Landlord of responsibility for the repairs. (See *Knight v. Halltshammar*, 29 Cal.3d 46, 57 (1981); *Sierra Asset Servicing, LLC,* 226 Cal.App.4th 1281, 1295 (2014).)

Respondents also argue that they are not responsible for the condition in the bathroom because Petitioner caused it. There is no evidence that Petitioner caused the water intrusion which has been identified by the Building Inspector and by Petitioner's expert as the cause of the damage to the bathroom floor.

Respondents additionally argue that Petitioner is estopped from being able to raise the issue of habitability because she signed an estoppel certificate at the time of sale which said that "all obligations of Landlord under the Lease have been fully performed." They also argue that the 2018 Lease between Mr. Chi and Petitioner states in Paragraph 15A that "The Tenant acknowledges that the Tenant has inspected the Leased Premises and at the commencement of this Lease Agreement, the interior and exterior of the Leased Premises, as well as all equipment

[2] Given that Respondents testified that they were given an inspection report and that they did a walkthrough prior to their purchase of the Property, they should have been aware of all of the problems with the condition of the Property prior to purchase. Petitioner testified that Respondent Ms. Xiang told her that there was a buyer before Respondents who backed out of a contract to purchase the Property because there were too many problems with the condition of the Property. Respondents did not dispute this testimony.

and any appliances are found to be in an acceptable condition and in good working order." Section 1713 of the CSFRA prohibits Landlords from coercing Tenants into waiving their rights under that Ordinance: "Any provision of a Rental Housing Agreement, whether oral or written, which purports to waive any provision of this Article established for the benefit of the Tenant, shall be deemed against public policy and shall be void." Any kind of attempt to have a Tenant waive his or her rights to a habitable Rental Unit, which are provided for in the CSFRA, would thus be void. Additionally, under California law, such a waiver is also void. California Civil Code section 1942.1 states that "Any agreement by a lessee of a dwelling waiving or modifying his rights under Section 1941 or 1942 shall be void as contrary to public policy with respect to any condition which renders the premises untenantable…" The rationale behind these provisions stems from the unequal bargaining power between Landlords and Tenants (see *Green v. Superior Court*, 10 Cal.3d 616, 625 (1974)); Tenants are frequently afraid to complain about lack of maintenance or the need for repairs because of the fear of outright eviction or constructive eviction, as is witnessed by Arnulfo Martinez's testimony that he did not push his Landlord to repair the Affected Unit after the flood because he feared eviction. Thus, caselaw provides that even if a Tenant moves into a Rental Unit with knowledge of an uninhabitable condition or remains in the Rental Unit despite an uninhabitable condition, the Tenant still may assert his or her rights to a habitable Rental Unit (see *Knight v. Halltshammar*, *supra*, 29 Cal.3d at 54, 59 and *Smith v. David*, 120 Cal.App.3d 101, 110 (1981)). Pursuant to the CSFRA and California statutory law and caselaw, Petitioner could not waive her right to a habitable Rental Unit by signing the 2018 Lease, and, by extension, she could not waive her rights by signing the estoppel certificate because doing so would nullify the Landlord's duty to repair the Affected Unit under the 2018 Lease.

Respondent also argued that Petitioner is estopped to raise habitability issues because she did not pursue these issues with the City while Mr. Chi owned the Property. Once again, there is nothing in the CSFRA that requires a Tenant to raise lack of maintenance with a prior Landlord in order to raise it with a current Landlord, and, as already discussed, the warranty of habitability may not be waived. The legal reasoning that applies to raising habitability issues with a former Landlord applies equally to raising those issues with the City because going to the City is effectively the same as notifying the Landlord; once the City is informed, the Landlord will soon find out. Given that Respondents have repaired a number of pre-existing conditions in the common area, and they replaced a stove for Ms. Manriquez that Mr. Chi knew about and failed to repair, perhaps Respondents should in fact be estopped from even raising this argument, since their actions acknowledge their responsibility for the pre-existing conditions on the Property. Additionally, Petitioner testified that she approached the City at this point in time only because she felt that Respondents were not taking her complaints seriously, which was the same problem she had with prior Landlords, and because Respondent Ms. Xiang said she would raise the Rent if she had to make repairs. After Respondent Ms. Xiang said that, Petitioner felt

she had to find out from the City what her rights were.[3] Allowing Landlords to pursue this argument would condone violations of the CSFRA and have a chilling effect on Tenants exercising rights thereunder.

For the foregoing reasons, Petitioner has met her burden of proof with respect to the bathroom floor and is entitled to a downward adjustment of rent.

2. Toilet

There is no dispute that the toilet is running continuously due to a leak. Petitioner informed Respondents, who assessed the problem and told Petitioner that if it did not bother her, she should leave it as it is because Respondents could not get the part to fix it. The Inspection Report did not address the running toilet. While a running toilet may seem *de minimus*, it creates a remarkable waste of water, potentially 8,000 gallons per year (https://www.usgs.gov/special-topics/water-science-school/science/water-qa-does-little-leak-my-house-really-waste-water-0)

Additionally, the International Property Maintenance Code Section 504.1 requires that "Plumbing fixtures shall be properly…maintained…and kept free from …leaks." Despite the leak, the toilet is still functional, but it is without a doubt not being maintained properly.

CSFRA Section 1710(c) states that "A decrease in Housing Services or maintenance, or deterioration of the Rental Unit beyond ordinary wear and tear, without a corresponding reduction in Rent, is considered an increase in Rent."

Petitioner informed Respondents of the leak in early January 2022, and Respondents, to their credit, attempted to repair it promptly. In their Response to the Petition, Respondents stated that they addressed the mold situation in the Affected Unit and that they have been "doing my best to respond to everything and make sure the living situation is great…I have already worked on and solved multiple issues for this property," and Respondents testified that they had repaired numerous conditions, mostly in common areas. Thus, it is apparent that Respondents understand that it is their responsibility to maintain the Property in habitable condition.[4]

As Respondents testified, they did not replace the part in the toilet that was causing the toilet to run because, due to the toilet's age, the part was no longer available. At that point, an appropriate response would have been to replace the toilet or to call a licensed plumber, but those options were not considered. Ultimately, Petitioner's father repaired the toilet. Perhaps this is indicative of the fact that Respondents were not qualified to repair the toilet and should have called in a professional. Given that Respondents testified that it was the norm for them to

[3] Under CSFRA Sections 1707 and 1710, it is unlawful for a Landlord to raise the rent after the Landlord makes repairs unless the Landlord has properly petitioned for an Upward Adjustment of Rent and has been granted such an adjustment.

[4] It is noticeable that most of the repairs have been to the common area, and it can be surmised that these repairs are particularly beneficial to Respondents' Airbnb business.

maintain the Property, leaving the toilet to run 24 hours a day amounts to a decrease in maintenance and thus requires a downward adjustment of rent pursuant to Section 1710(c).

Ceiling

The ceiling has a buckled seam indicative of water damage. The Inspection Report stated that the "Ceiling shows water damage in the left bedroom and living room, locate the cause and repair the ceiling including patching and painting." The Report refers to the same Building Code sections for this concern as it did for the bathroom floor. The fact that the Report requires the Respondent to locate the cause and remediate it, not just to patch and paint, indicates a concern that there could be an active leak. Indeed, it is fortunate that the ceiling has not collapsed.

Petitioner and Respondents both testified that they discussed the condition of the ceiling on November 23, 2021 at their first meeting, when they discussed it being a health hazard. At that time, Respondents told Petitioner that they could not repair the ceiling without Petitioner vacating, and Respondent Ms. Xiang, "out of kindness" started showing Petitioner pictures on her phone of other smaller Rental Units available nearby. Petitioner suggested to Respondent Ms. Xiang that Petitioner could move into the Rental Unit above her while the repairs were done, but Ms. Xiang refused.

Failure to maintain the ceiling in compliance with the Building Code violates CSFRA Section 1710(b)(1). Additionally, Respondents were made aware of a problem with the ceiling—indeed they brought it up—on November 23, 2021, and they thus had ample time to have someone inspect it and come up with a plan for remedying it, but they did not do so. Thus, Petitioner is entitled to a downward adjustment of rent for this condition.

Respondents argue that Petitioner caused the problem with the ceiling and thus they are not responsible for the issue. Petitioner admitted that she had scraped off a portion of the popcorn ceiling because there were cracks in it. However, there is no evidence that she caused the seam or cracks in the ceiling to develop. Indeed, the Building Inspector determined that the condition of the ceiling indicates water leakage. Petitioner could not cause water leakage in her own ceiling.

Mold

There was no significant visible mold present at the time of inspection, and Petitioner was unable to show the Building Inspector the allegedly damaged wall in the kitchen. Thus, she has not met her burden of proof that a downward adjustment of rent is warranted on this issue. However, should the concern arise again, Petitioner may bring a new Petition if Respondents do not address it within a reasonable time. It is assumed that in the process of repairing the floor and/or the ceiling, if mold is discovered, Respondents will do what is necessary to remediate it rather than simply painting over it.

Carpet

The condition of the carpet was not discussed in the Inspection Report. Upon inspection, it appeared old but serviceable and is most likely in decent condition because Petitioner has carefully maintained it. It was not in noticeably worse shape than the carpets in the other two units that had carpeting. Petitioner has not met her burden of proof that a downward adjustment of rent is warranted on this issue.

Subletting

Under Section 1705(a)(2)(A) of the CSFRA, a Tenant does not breach a lease by subletting to a roommate if "the following requirements are met: (i) The Tenant continues to reside in the Rental Unit as his, her or their Primary Residence: (ii) The sublessee replaces one or more departed Tenants…; and (iii) The Landlord has unreasonably withheld the right to sublease following written request by Tenant." A Landlord may refuse to allow a subtenant on the "ground that the total number of occupants in a Rental Unit exceeds the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by Health and Safety Code Section 17922." Section 503(b) states in part: "Every room used for sleeping purposes shall have not less than 70 square feet of superficial floor area. When *more than two persons* occupy a room used for sleeping purposes the required superficial floor area shall be increased at the rate of 50 square feet for each occupant in excess of two (emphasis added)." Thus, it is assumed that there may be two occupants for each bedroom in a Rental Unit.

Petitioner has met her burden of proof with respect to CSFRA Section 1705(a)(2)(A), subsections (i) and (ii). Petitioner has resided continuously in the Affected Unit since she was a child and would continue to reside in the Affected Unit with the sublessee. Any sublessee moving in with Petitioner would replace a former sublessee. Petitioner and Ms. Castro testified that Ms. Castro lived in the Affected Unit with Petitioner from July 2018 through July 18, 2021. Petitioner and Ms. Castro testified that Ms. Castro's name was not on the Lease and that she paid her proportionate share of the Rent directly to Petitioner, who then paid the full amount of the Rent to Mr. Chi, which made Ms. Castro a sublessee because she was not in privity of contract with Mr. Chi. Petitioner testified that another roommate, also a sublessee, lived in the Affected Unit with her from the end of July 2021 through October 2021. Petitioner presented a text message demonstrating Mr. Chi's acknowledgement that Petitioner had a roommate residing in the Affected Unit at that time.

With respect to Subsection (iii), it appears that Petitioner requested in writing permission from Respondents to have a sublessee, because Respondents testified that Petitioner sent an email to them asking permission, and Respondents responded by saying that Petitioner could have a sublessee but she would have to pay higher rent.[5] However, the CSFRA has very detailed regulations that must be followed with respect to notice to a Landlord, as well as to the Rental

[5] Respondents also alleged in their Response to the Petition that there was an email in which Respondents agreed to a sublease, subject to an increase in Rent.

Housing Committee, when a Tenant wants to replace a roommate (See CSFRA Regulations, Ch. 9, Section E.) There was no evidence presented that these regulations were adhered to when Petitioner requested permission to replace a roommate; thus, she has not met her burden of proof as to this element. However, this does not foreclose Petitioner's right to sublet in the future; should Petitioner wish to request permission to sublet in the future, she may do so, provided that she follows the procedure set out in the CSFRA.

While the subletting issue has been determined and the Hearing Officer need not address the remaining question of whether Respondents unreasonably withheld permission to sublease, the Hearing Officer will offer some observations as guidance.

The question arises as to whether making permission to sublease contingent on raising the rent is an unreasonable withholding of permission to sublease. CSFRA Section 1707 permits rent increases in the amount of the Annual General Adjustment only once per year. In most cases, subleasing in accordance with Section 1705(a)(2)(A) does not give Landlords the right to increase the Rent beyond what is set forth in Section 1707. Regulation C.4.b of Chapter 9 of the Regulations to the CSFRA states as follows: "Except as set forth in subsection C.4.a. above, the use and occupancy of the Covered Rental Unit by one or more Additional Occupants…does not of itself, authorize any Rent increase." Subsection C.4.a permits Rent to be raised to market rates only if no original occupant is left in the Rental Unit. As has been discussed earlier, Petitioner is an original occupant, so it was unlawful of Respondent to condition permission to sublet upon a Rent increase.

Respondents argued that the 2018 Lease terms did not permit subleasing. They stated that the 2018 Lease provides that Petitioner is the only person residing in the Affected Unit and thus is the only person allowed to live there. The 2018 Lease, in Paragraph 5, does say that Petitioner is the only person living there and that "any change in occupancy will require written consent of the Landlord and may be subject to an adjustment in the amount of the rent." As discussed above, this provision about an increase in Rent tied to adding an occupant is subject to the CSFRA and in this particular case is not permitted by that Ordinance. The Lease also says, in Paragraph 30, that "Tenant agrees not to sub-lease the Leased Premises without the Landlord's written permission." Thus, Petitioner is required to obtain Respondents' written permission, which, as set forth in Section 1705(a)(2)(A), must not be unreasonably withheld. This requirement of a reasonable, good faith reason for denial of permission to sublet is consistent with California law (See Civil Code Section 1995.260 and *Kendall v. Ernest Pestana, Inc.,* 40 Cal.3d 488 (1985).)

Respondents argued that the Estoppel Certificate prevents Petitioner from subletting because it affirms that "[t]here are no verbal or written agreements or understandings between Landlord and Tenant with respect to the Premises," unless set forth in the Estoppel Certificate. There was no proof that there were any side agreements between Petitioner and Mr. Chi. Subleasing was never discussed by Mr. Chi and Petitioner, so there could not have been any agreements or understandings. Petitioner sublet the Affected Unit to one roommate at a time, and Mr. Chi

waived his right to object by doing nothing about it. And it is not even clear whether there was a roommate living in the Affected Unit when Petitioner signed the Estoppel Certificate on October 21, 2021. Additionally, the Estoppel Certificate specifically does not list subletting in its affirmations; it simply says "Tenant has not assigned, transferred or hypothecated its interest under the Lease."

Respondents argued that another reason they do not want to allow Petitioner to sublet is that they believe she is using their property to make money, i.e., they believe that Petitioner was charging her subtenants more than their proportionate share of the Rent. There was no evidence presented to support these allegations; indeed, Ms. Castro was very clear that she paid half of the Rent. Additionally, under CSFRA Regulations Chapter 9, Section C (3), Petitioner may not profit from a sublessee, and under Section C (1), Respondents may inquire of a sublessee how much they are paying Petitioner and in what form.

Finally, Petitioner stated in the Petition that Respondents told her that they would have to raise the Rent if she were to sublet due to additional wear and tear on the Affected Unit. Paragraph 18 of the 2018 Lease provides that for a two-bedroom apartment, the occupancy limit is 5 people. Given the 2018 Lease provision and that Section 503(b) of the Uniform Housing Code allows two occupants per bedroom, the wear and tear argument does not seem reasonable.

Calculation of Downward Adjustment of Rent

The question remains as to how to calculate the downward adjustment of rent due to the unsafe condition in the bathroom, the water damage to the ceiling, and the failure to properly maintain the toilet. As to the floor and ceiling, damages for unsafe or unhealthy conditions are generally determined in one of two ways: calculating the difference between the fair rental value of the Affected Unit if it had been as warranted and the fair rental value of the Affected Unit as it is currently with the existing conditions, or by a percentage reduction in use, which would involve reducing Petitioner's rental obligation by a percentage corresponding to the relative reduction of use of the Affected Unit caused by the unsafe or unhealthy conditions. (See, *Green v. Superior Court,* at 638, 639 fn. 24.) In this particular situation, there has been no expert testimony as to either the fair rental value as warranted or the fair rental value with defects, making that method very difficult to use. This leaves the percentage reduction in use method.

With respect to the bathroom, while Petitioner *can* use the bathroom, she really *should not*, because she risks going through the floor. Thus, the value of the bathroom has been reduced to $0.00. The Affected Unit has five rooms: a kitchen, two bedrooms, a living room and the bathroom. Dividing the monthly Rent of $1457.00 by the number of rooms (5) results in $291.40 for each room. Since the bathroom should have a value of $291.40 but in actuality has no value, the downward adjustment of rent for the inability to use the bathroom safely is $291.40. Given that the toilet is part of the bathroom, reducing the Rent even more for the annoyance of having a noisy toilet would be unfair, so the reduction for that condition is $0.00.

However, should the bathroom be repaired without the toilet being permanently repaired or replaced, the Rent shall be reduced one time only by a total of $650.00 to cover the cost and installment of a new toilet. The total reduction for the bathroom amounts to $291.40, or 20 percent of the total Rent for the Affected Unit.

With respect to the ceiling in the living room and the bedroom, which suffer from water damage, the rooms are still essentially usable. The ceiling has not caved in yet and one hopes that it never will. However, any time there is water damage in a ceiling, there is a legitimate worry that the ceiling will cave in. Petitioner is entitled to compensation for that risk in the amount of five percent of the total value of the two rooms that are affected. If each room is worth $291.40, then two rooms are worth $582.80, and five percent of that is $29.10, which amounts to just under two percent of the total Rent.

The total monthly downward adjustment of Rent for the Affected Unit is $291.40 plus $29.10, which equals $320.50.

The next issue that arises is the time frame for the downward adjustment. With respect to the bathroom, Respondents had notice starting around the beginning of December 2021. They have had approximately five months prior to the Hearing to investigate and correct the condition. Three months—through February 2022--would have been a reasonable amount of time to make substantial progress, but to date no progress has been made.[6] Thus, the Rent will be reduced by $291.40 commencing on March 1, 2022 and continuing until such time as a City building inspector signs off on the repairs to the bathroom floor and a new or permanently repaired toilet is installed.

With respect to the ceiling, Respondents knew about the problem commencing at the end of November 2021. Three months would have been a reasonable amount of time to make substantial progress, but to date no progress has been made. Thus, the Rent will be reduced by $29.10 per month commencing on March 1, 2022 and continuing until such time as a City building inspector signs off on the repairs to the ceiling.

Therefore, Respondents owe Petitioner a downward adjustment of rent for Rent already paid for the months of March, April, and May 2022 in the amount of $320.50 per month, or $961.50. Going forward starting in June, Respondents will owe Petitioner a downward adjustment of rent for each month in the total amount of $320.50 until the repairs are made as directed in this Order.

Once the bathroom floor is repaired as directed herein, the Rent will be increased by $291.40 per month. Once the ceiling is repaired as directed herein, the Rent will be increased by $29.10 per month.

[6] Since the CSFRA requires that Landlords have notice and an opportunity to repair, it appears that a reasonable time period for repair should be taken into account in calculating a downward adjustment of rent.

See Attachment 1 for a chart documenting the downward adjustment of rent awarded to the Tenant and the credit schedule for the monthly reduction of rent, as discussed in section IX, below.

VIII. CONCLUSIONS OF LAW

1. Petitioner is entitled to a downward adjustment of rent due to the unsafe condition of the bathroom floor. That condition violates California Building Code Section 3405 et seq., as well as California Civil Code Sections 1941.1 et seq., and California Health and Safety Code Section 17920.3 and thus falls within CSFRA Section 1710(b)(1). Respondents were provided notice and an opportunity to cure pursuant to CSFRA Section 1710(b)(2).
2. Petitioner is entitled to a downward adjustment of rent due to the water damage to the ceiling in the bedroom and living room because it violates California Building Code Section 3405 et seq. and thus falls within CSFRA Section 1710(b)(1). Respondents were provided notice and an opportunity to cure pursuant to CSFRA Section 1710(b)(2).
3. Petitioner is entitled to a downward adjustment of rent due to the failure to properly maintain the toilet, which constitutes a decrease in maintenance pursuant to CSFRA Section 1710(c).
4. Petitioner did not meet her burden of proof in order to obtain a downward adjustment of rent as to the allegations of mold in the bathroom.
5. Petitioner did not meet her burden of proof in order to obtain a downward adjustment of rent as to the allegations of the carpet needing replacement.
6. Pursuant to CSFRA Section 1705(a)(2)(A), should Petitioner wish to sublet to a roommate in the future, she must comply with the notice requirements set out in CSFRA Regulations Chapter 9, Section E, and Respondents must comply with the CSFRA as well as California law.

IX. DECISION

1. Respondents owe Petitioner $961.50 as a downward adjustment of rent for the months of March, April, and May. Respondents shall refund this amount to Petitioner in the form of three monthly rent credits. Thus, the amount owed by Petitioner for Rent for June 2022 shall be reduced by $320.50 to $1136.00; Rent for July 2022 shall be reduced by $320.50 to $1136.00; and Rent for August 2022 shall be reduced by $320.50 to $1136.00.
2. Commencing in June 2022, and for each month thereafter, so long as the bathroom floor and the ceiling are not repaired as ordered herein, Petitioner's Rent shall be reduced by $320.50. Thus, in June, July and August, in addition to the Rent credits discussed in Item 1, above, Respondents will reduce the monthly Rent an additional $320.50, to $816.00. Starting in September 2022, if repairs are not yet completed, the Rent will return to $1136.00.

3. In the event that the bathroom floor and toilet are repaired as ordered herein, meaning that at such time as a City building inspector signs off on the repairs to the bathroom floor and a new or permanently repaired toilet is installed, Petitioner's Rent shall be increased by $291.40 per month, to $1427.40.
4. In the event that the ceiling is repaired as ordered herein, meaning that a City building inspector signs off on the repairs to the ceiling, Petitioner's Rent shall be increased by $29.10, to $1165.10.
5. If the bathroom floor, the toilet and the ceiling are all repaired at the same time, Petitioner's Rent shall increase to $1457.00 per month.
6. In the event that the toilet is not permanently repaired or replaced at the same time that the bathroom repairs are completed as ordered herein, Respondents shall reduce Rent at such time by the amount of $650.00. This shall be a one-time only Rent reduction.
7. The credits to Tenant as set forth herein shall be enforceable as to any successor in interest or assignees of Respondents.
8. In the event that either Petitioner or Respondents terminate Petitioner's tenancy prior to application of the rent credits ordered by this Decision, the total amount then owed shall become due and payable to Tenant immediately and if said amount is not paid, Petitioner shall be entitled to a money judgment in the amount of the unapplied rent credits in an action in Small Claims court or any other administrative or judicial or quasi-judicial proceeding.
9. In the event that it is necessary for Petitioner to vacate the Affected Unit in order for repairs to be made, CSFRA Section 1705(a)(6) shall govern, as shall Section 1705(b), as applicable.
10. Pursuant to CSFRA Section 1707(f)(2) and (3), Respondents may not issue a Rent increase for the Affected Unit until the condition of the Affected Unit is brought into compliance with the CSFRA, as ordered herein. At such time, any rent increase shall be subject to CSFRA Sections 1707 and 1710.

It is so ordered.

_____ Date: May 11, 2022

Hearing Officer Barbara M. Anscher

ATTACHMENT 2

Attachment 1

DOWNWARD ADJUSTMENT OF RENT			
Petition Issues	**Amount of Reduction (in rent per month)**	**Time Period**	**Total Reduction To-Date**
Bathroom Floor and Toilet ("Bathroom")	$ 291.40	March 1, 2022 onward, until City building inspector signs off on repairs to bathroom floor ***and*** new/permanently repaired toilet is installed.	$ 874.20
Bedroom and Living Room Ceiling ("Ceiling")	$ 29.10	March 1, 2022 onward, until a City building inspector signs off on repairs to the ceiling.	$ 87.30
Mold	$ -		$ -
Carpet replacement	$ -		$ -
Subtenant	N/A		N/A
	$ 320.50		$ 961.50

CREDIT SCHEDULE*					
Month/Year	**Amount of Rent Refund for March, April and May 2022 (in rent per month)**	**Amount of Reduction (in rent per month)**	**Total Rent Reduction**	**Total Rent Owed as per Hearing Officer Decision per Month**	**Further Notes**
June 2022	$320.50	$320.50	$641.00	$816.00	This is the downward adjustment of rent for March, April, and May 2022 in addition to the reductions ordered each month per Hearing Officer Written Decision (IX.1-2).
July 2022	$320.50	$320.50	$641.00	$816.00	
August 2022	$320.50	$320.50	$641.00	$816.00	
September 2022**	Not applicable	maximum $320.50	maximum $320.50	at minimum $1,136.00	If both the Bathroom and Ceiling issues remain unrepaired, the rent shall continue being decreased at the rate of $320.50 per month. If only the Ceiling remains unrepaired, the rent shall continue being decreased at the rate of $29.10 per month. If only the Bathroom remains unrepaired, the rent shall continue being decreased at the rate of $291.40 per month. If the toilet remains unrepaired or is not yet replaced, rent shall be reduced by $650.00 as one-time only reduction.

*If Petitioner or Respondents terminate Petitioner's tenancy prior to application of rent credits, per Hearing Officer Written Decision (IX.8, Petitioner shall be entitled to a money judgment.)

**Rent will return to $1,136.00 per month if repairs are not yet made, per Hearing Officer Written Decision (IX.2-IX.6.)

山景城

听证官根据社区稳定和公平租金法案（"CSFRA"）做出的决定

租赁住房委员会案件编号:	21220008
出租物业的地址和单位:	1802 Higdon Avenue, Unit #2 Mountain View, CA 94041
申诉人 租户姓名:	Iris Martinez
应诉人房东姓名:	Hong （“Jane”） Xiang and Wei Deng
听证会的日期:	2022 年 4 月 20 日
听证会的地点:	Zoom
听证会记录结束日期:	2022 年 4 月 20 日
决定的日期:	2022 年 5 月 11 日
邮寄日期:	见所附服务证明
听证官:	Barbara M. Anscher

I. 案情陈述 (程序历史)

1. 2022 年 3 月 3 日，租户 Iris Martinez（"租户 "或 "申诉人"）向山景城（"本市 "）提交了一份下调租金的申诉书，特别是申诉书 B：就住址 1802 Higdon Avenue， Unit #2(“受影响单元”)未能维持适合居住的房屋或 CSFRA 定义的维修和住房服务的减少（"申诉书"），该申诉书被市租金稳定计划（"市府"）所接受.

2. 应诉人 Hong（"Jane"）Xiang 和 Wei Deng（合称"房东 "或 "应诉人"；分别称为"应诉人 Xiang 女士 "或 "应诉人 Deng 先生"）以三封电子邮件的形式对申诉书作出了回应，其中两封是在 2022 年 3 月 7 日，一封是在 2022 年 3 月 21 日（"回应"）.
3. 听证官命令山景城消防和环境保护处对"受影响单元"和位于 1802 Higdon Avenue 的整个房产（"房产"）进行检查，上述检查于 2022 年 3 月 15 日进行，听证官出席了检查。 检查是由多户住房检查员 Jim Olson（"建筑检查员"）进行的，他于 2022 年 3 月 15 日提出了一份检查报告.
4. 听证会细节已于 2022 年 3 月 14 日通过电子邮件发送给各方，确定该事项的听证日期为 2022 年 4 月 21 日下午 4 点. 关于 2022 年 4 月 7 日下午 4 点的听证会前会议细节也于 3 月 14 日通过电子邮件发送给各方。
5. 正如已注明的，2022 年 4 月 7 日举行了听证会前的电话会议。
6. 2022 年 4 月 7 日，在听证会前会议后，听证官向申诉人提出书面要求（"要求"），要求在 2022 年 4 月 12 日前提交文件和其他资料。 听证官在"要求"中指出，如果应诉人房东打算提交文件来支持他们的"回应"，建议他们在 2022 年 4 月 12 日之前提交。市政府于 2022 年 4 月 8 日以电子方式向各方送达了听证官的听证前要求和听证会通知.
7. 申诉人于 2022 年 4 月 7 日以电子方式向本市提交了补充文件，以回应听证官的要求。 应诉人于 2022 年 4 月 12 日按要求提交了补充文件.
8. 在听证会前的会议上，申诉人要求为她的一名证人提供西班牙语翻译，而应诉人要求提供普通话翻译。 听证会的日期和时间被移至 2022 年 4 月 20 日下午 3:30，以适应口译员的日程安排，本市已就此发出通知.
9. 听证会于 2022 年 4 月 20 日下午 3:30 举行.
10. 2022 年 4 月 20 日下午 7 点听证会结束后，记录被关闭.

II. 出席听证会的当事人

以下各方出席了听证会。 申诉人 Iris Martinez 和应诉人 Hong "Jane" Xiang 和 Wei Deng.

市政府方面，高级管理分析师 Patricia Black、CSFRA 租金稳定计划经理 Anky Van Deursen 和一级分析师 Joann Pham 出席了会议。

市政府还提供了以下翻译人员。 Eileen Li 和 Ana Jimenez。

III. 证人

以下人员经正式宣誓后在听证会上作证，并提出以下证词:

Iris Martinez

申诉人作证说，2018 年秋天，受影响单元出现了蟑螂问题。 她拉出冰箱进行调查，发现墙壁上有一条从顶部到底部的裂缝。 她给当时的房东 Haibo Chi（"Chi 先生"）发了电子邮件，Chi 先生过来看了看裂缝。 他说这不是一个问题，让它保持原状。申诉人自己用刮墙和粉刷的方式修补了裂缝，这似乎解决了蟑螂的问题.

申诉人还作证说，在 2001 年之前的某个时候，受影响单元曾有过水损害，当时楼上邻居的浴室淹没到受影响单元的走廊、浴室和客厅，损坏了地毯。 她说，天花板出现裂缝是因为水从走廊的天花板流出，而且还通过灯具流出。 地毯从未被更换，因为为了更换，当时的房东要求租户自行将家具搬出受影响的单元。申诉人说，她的父亲刚做完手术，无法搬动家具，而她只是个孩子，所以她无法帮忙，因此，地毯仍然保持原样。申诉人作证说，她把洪水和地毯的损坏情况告诉了应诉人 Xiang 女士.

申诉人说，2018 年 3 月 9 日，Chi 先生告诉申诉人，她可以更换浴室里的镜子。 当她这样做时，她发现了一个大洞，该洞被纸板覆盖。 她留下了这个洞，并更换了镜子.

2021 年 11 月 23 日，申诉人在受影响单元外与应诉人进行了一次谈话。 他们讨论了受影响单元的爆米花天花板问题。 应诉人 Xiang 女士当时表示，由于天花板对健康的危害，她对大楼里的租户感到担忧。 Xiang 女士告诉申诉人，当租户住在出租单元时，她无法修理天花板，租户必须离开以进行修理。申诉人建议，在修理天花板时，她可以搬到楼上的公寓，但应诉人 Xiang 女士拒绝了.

申诉人还作证说，2021 年 11 月 23 日，她问应诉人是否可以有一个新的室友，以取代从 2018 年 7 月到 2021 年 10 月与她住在受影响单元的室友。 她还作证说，她在此后的某个时候给应诉人发了电子邮件，询问关于室友。申诉人作证说，她一直与她的父母住在受影响的单元，直到他们在 2018 年夏天离开美国。然后，从 2018 年 7 月到 2021 年 7 月底，她在受影响的单元有一个室友。 然后她有另一个人从 2021 年 7 月到 2021 年 10 月从她那里分租。 她说，室友们会把他们的份额（一半的租金）付给她，然后她会用 Zelle

把款项寄给 Chi 先生。 她说，每次房租上涨，她和室友都会平分。她说，Chi 先生口头上承认申诉人有室友。 申诉人作证说，应诉人拒绝让她有一个室友，因为申诉人是租约上唯一指定的人.

申诉人说，在 11 月 23 日的会面中，应诉人 Xiang 女士告诉她，其他地方有更好的出租单位，她不需要两居室的公寓，应诉人 Xiang 女士用手机向申诉人展示了较小公寓的公寓列表。 申诉人说，当时她觉得应诉人 Xiang 女士是在针对她，因为她的租金很低，应诉人试图让她搬走.

申诉人作证说，她给 Chi 先生发电子邮件说浴缸附近有霉菌，他在上面刷了漆。 她说，2021 年 12 月 7 日，她通知应诉人同样的问题再次出现：浴室里浴缸旁边的墙面有气泡，有明显的霉菌。 应诉人 Xiang 女士当天就作出回应，并带来了防霉喷雾。 她对霉菌进行了喷洒和擦拭，霉菌消失了；但是，申诉人说，这并没有解决墙壁起泡的问题。 申诉人说，此后，应诉人的承包商来到这里，盖住了镜子后面的洞，修补了浴缸旁边的墙壁，并粉刷了浴室。 申诉人认为，这并没有对霉菌进行补救，而只是掩盖了它。她说，承包商在修补墙壁后甚至没有打磨墙壁，留下了粗糙的斑点.

申诉人作证说，2021 年 12 月 7 日，当应诉人 Xiang 女士过来处理霉菌时，申诉人告诉她，地板是 "软的"。应诉 Xiang 女士回答说，如果她要修理地板，就必须提高租金。 她还说，申诉人将不得不搬出去修理，她应该寻找其他住房。在那时，申诉人决定与城市租金稳定计划的人交谈，看看她有什么权利.

申诉人表示，几年前她曾在浴室地板上铺设油毡砖，她将油毡砖拆下，以便应诉人看到下面的地板是什么样子。 她给应诉人 Xiang 女士发短信介绍了地板的现状。 申诉人通过短信询问应诉人 Xiang 女士是否与她的承包商谈过地板的问题，想知道承包商是否对地板的状况说过什么，因为他已经在浴室工作了两天。应诉 Xiang 女士回答说，承包商不知道问题出在哪里，必须打开地板才能知道。 在第二次短信交流中，应诉人 Xiang 女士说她的承包商太忙了，没时间处理。 申诉人说，她觉得应诉人 Xiang 女士没有认真对待这个问题。申诉人随后要求承包商 Bob Earle 过来看一下地板.

申诉人说，她觉得需要的维修永远不会得到解决，因为这些问题只是从一个房东传到另一个房东，而没有人认真对待它们。她说，她感到很难过，因为新的房东将不得不处理维修问题，但在多年来被房东忽视后，她觉得没有其他办法来完成维修.

申诉人作证说，自 2022 年 3 月以来，她父亲在斯坦福医院接受治疗时一直住在她那里。她说，应诉人 Xiang 女士告诉她，让她父亲住在那里是帮她的忙。申诉人说，她觉得这将会对她不利.

申诉人作证说，以前的房东 Chi 先生从来不做任何修理，所以她自己动手修理。 她说，厨房橱柜的门会因为上面的油脂和灰尘而被卡住，所以她把门拆了。 她说，Chi 先生看到门被拆了，但他从未说过什么。 她还说，她曾试图修复天花板上有裂缝的部分，并剥去了外层，直到她知道这可能会对健康造成危害，所以她停止了。申诉人说，在受影响的单元中，她剥离天花板的唯一区域是在客厅，其他损坏的区域是受影响单元上面的单元被洪水淹没后造成的.

申诉人还表示，马桶一直在漏水。 她把这个问题通知了应诉人，他们当天就来查看了。他们取出了一个零件，不再像以前那样嘈杂。 应诉人问她噪音是否影响到她，她说没有影响。 后来，声音增加到以前的程度，这让她感到不安。 她决定不和应诉人谈这个问题，因为她已经和市政府谈过提交申诉书的事。 她的父亲后来修复了厕所.

申诉人还作证说，2022 年 2 月 19 日，她回复了应诉人 Xiang 女士要求查看浴室地板的短信，说她只有在当晚 7 点以后才有空，但应诉人 Xiang 女士没有理会申诉人的回复，在下午 2 点就过来了。 她说，当应诉人 Xiang 女士在 2022 年 2 月 28 日再次要求检查地板时，申诉人已经和租金稳定计划的一名雇员谈过，该雇员告诉她可以等到市政府检查后再让应诉人进去，所以她没有回应应诉人的要求。 申诉人随后于 2022 年 3 月 3 日提交了申诉书.

Sarah Becca Castro

Castro 女士作证说，她在 2018 年 7 月至 2021 年 7 月期间是申诉人的室友。 她说，当时的房东 Chi 先生知道她是谁，也知道她住在受影响的单元，尽管她的名字不在租约上。 她还说，邻居们都知道她住在那里.

Castro 女士还说，她和申诉人自己在受影响的单元做了很多工作。 她说，他们拆除了厨房的橱柜门，因为铰链很脏，上面有油污，他们本来打算更换铰链，但买新铰链太贵了，所以他们就把门卸下来了。 她说，他们还租了地毯清洁工，清洗了地毯。 她说，Chi 先生知道拆掉柜门的事情.

Castro 女士作证说，她雇了一个有执照的电工来增加一个电源插座，这样她就可以把电视安装在墙上并插上电源。 她说，Chi 先生看到了 "浮动电视 "和新的插座，但没有说什么.

经应诉人盘问，Castro 女士说，她和申诉人平分了租金。她说，她最初用现金向申诉人支付租金，但后来改用 Zelle。她说，她在 2021 年 7 月 10 日左右搬出，并在 2021 年 7 月 18 日交出了钥匙.

Bob Earle

Earle 先生作证说，他自 1986 年以来一直是有执照的承包商，自 1978 年以来一直在建筑行业工作。 他以 Bob Earle Construction 的名义进行经营。他说，他的工作是专门从事住宅建设，包括改造、增建、维修和水渍工作。 他说，他在水损害修复方面有丰富的经验.

Earle 先生作证说，他在 2022 年 3 月检查了受影响单元的浴室，并得出结论，这是他见过的最严重的水损害案例之一。 他说，地板支撑结构的损坏是水损害和霉菌的综合影响。 他说，霉菌是湿气入侵的一个症状或迹象。他认为，为了达到如此严重的程度，这个问题很可能已经存在多年了.

Earle 先生说，这是一个非常严重的问题，它使底层地板和地板托梁腐烂，而地板托梁是支撑地板的框架结构。 他说，他知道地板托梁已经腐烂，因为在浴室地板上行走时，"感觉像在蹦床上行走"。 Earle 先生作证说，这种情况很危险，底层地板上面的乙烯基地板是 "防止任何人穿过地板 "进入地下空间的原因.

Earle 先生说，在地板被打开之前，泄漏的原因是无法发现的。 有必要不断追踪损坏的地方，直到找到未损坏的材料。 到那时，就可以确定泄漏是来自上面的公寓，还是供应管道的泄漏。他作证说，为了补救这个问题，必须对浴室进行清扫，并拆除所有的装置.

在盘问中，Earle 先生作证说，他不认为申诉人在地板上铺设的瓷砖会导致或促成这一问题。 他说，原因应该是从下面或上面的单位漏水，而且这种情况已经持续了很多年。 他说，如果该物业建于 20 世纪 50 年代或 60 年代，它很可能有镀锌的管道，其寿命为 30 至 40 年。 之后，管道会被腐蚀并出现针孔泄漏.

Arnulfo Martinez

Martinez 先生作证说，他是申诉人的父亲，当她还是个孩子时，他住在受影响的单元。 他说，他不记得受影响单元上面的出租单元的洪水具体是什么时候发生的，但那是在申诉人的童年时期，当时第二个业主拥有该物业，有两次洪水。 他说，第一次是在一个周末的晚上，整个晚上水都下来了。 当时，卧室的地板被淹。 第二次是在接下来的周末，当时，水从天花板上的灯、加热器，还有浴室里的一小块天花板上涌出.

Martinez 先生说，最近申诉人给他寄来了浴室里的烟雾照片，在浴缸里和墙壁上。 他说，他认为这是由 "电力事故 "造成的，可能是由于浴室漏水造成的.

Martinez 先生作证说，在漏水事件发生后，当时业主的儿子检查了受影响的单元，看到墙上有水。 Martinez 先生说，这不是正常的水，而是 "脏水"，即污水。 他说，当时的房东所做的一切只是粉刷了浴室的部分天花板，但你仍然可以看到水渍。Martinez 先生说，他自己清理了地毯，用真空地毯清洗机将其擦干.

在盘问中，Martinez 先生说，他认为当时的房东通过更换马桶和撕掉地毯来修复了楼上的单元。 在受影响单元，他只在卫生间天花板上刷了一小块 "脏水 "流出的地方。 他还说，他担心如果他向当时的房东表达他的意见，认为对受影响单元的维修不够，他就会被赶走.

Hong “Jane” Xiang and Wei Deng

应诉人作证说，他们没有理由为其他业主对该物业的忽视负责。 他们表示，他们于 2021 年 11 月 22 日购买了该物业，申诉人所抱怨的所有问题在他们拥有该物业之前就已经存在。 他们说，他们对这些问题一无所知，他们同情申诉人，但他们无法对这些问题的存在做任何事情.

应诉人作证说，自从他们接管该物业以来，他们没有提高过租金。他们还作证说，由于申诉人没有向以前的房东投诉这些问题，所以她现在不能再投诉了。 他们说，当申诉人在 2018 年与 Chi 先生签署租约时，她批准了受影响单位的状况。 应诉人表示，他们与申诉人之间没有书面租赁合同，但他们同意采用申诉人在 2018 年与 Chi 先生签署的租赁合同条款.

应诉人作证说，自 2021 年 11 月 22 日以来，申诉人的生活条件没有变化，如果有任何变化，也是一种改善。 他们说，他们清除了浴室墙上的霉菌，修复了墙上的洞，并粉刷

了浴室。他们还说，2022 年 1 月 9 日，他们修复了一个长期出现故障的普通热水器，安装了一个安全摄像头，并在洗衣房安装了一台新的洗衣机.

应诉人表示，自他们获得该物业所有权以来，受影响单元出现的唯一问题是马桶问题。他们作证说，马桶从水箱到马桶有漏水现象，但没有漏到地板上。 由于马桶年代久远，造成该问题的部件已无法使用。 应诉人作证说，既然申诉人说噪音没有打扰到她，就没有理由修理它，因为应诉人支付了水费，他们不会因为一个小的漏水而感到困扰。 他们表示，这并不是一个不可居住的条件，他们已经及时修复了它.

经询问，应诉人作证说，该物业的出租单元的租金如下。 2 号单元（受影响单元）每月 1457 美元；1 号单元 1595 美元；3 号单元约 1550 美元；4 号单元，即受影响单元上方的出租单元，是一个 Airbnb 出租房，每晚租金为 130 至 150 美元。 应诉人计划将车库改建为辅助住宅单元，但尚未开始施工.

应诉人作证说，他们第一天见到申诉人时，她告诉他们浴室地板的问题，但他们认为这是一个外观问题。 他们认为她只是想改变地板上的瓷砖，因为你可以看到瓷砖之间的黑色。应诉人作证说，申诉人提到了 "地板发软"，但应诉人 "不是专业人士"，所以他们不知道这意味着什么。 应诉人说，他们向承包商询问了地板的情况，承包商说他必须打开地板才能确定问题所在。 应诉人说，他们不愿意为了弄清问题而把整个地板撕开。 他们还表示，在申诉人提交申诉书之前，他们没有机会弄清地板的情况。应诉人作证说，他们第一次看到地板的照片是 2022 年 2 月 8 日，那是在申诉人拆除瓷砖之后。2022 年 2 月 15 日，应诉人 Xiang 女士告诉申诉人，很难找到一个承包商。2022 年 2 月 19 日，应诉人 Xiang 女士试图与申诉人预约，但申诉人说她在晚上 7 点以后才有时间，Xiang 女士想在下午 2 点进行预约，"没有注意到晚上 7 点"。 应诉人作证说，申诉人在 2022 年 2 月 28 日和 3 月 2 日也没有时间。经询问，应诉人说，他们仍然没有一个承包商来做这项工作，他们自己申请了一个许可证.

应诉人作证说，应诉人 Xiang 女士在受影响单元内第一次见面时向申诉人提到，她认为剥落的爆米花天花板可能是危险的。 应诉人 Xiang 女士出于好意，用手机向申诉人展示附近的公寓，因为申诉人需要搬出去修理天花板，她认为看到其他可能的出租单元会有帮助.

应诉人说，申诉人从未告诉应诉人关于地毯的情况。 应诉人说，他们认为该地毯已被更换，而且比该物业的其他地毯都要新。 然而，他们承认，他们不知道地毯的年龄或更换时间，只知道建筑检查员说该地毯比物业的其他地毯新.

应诉人作证说，他们在购买房产之前确实收到了一份检查报告，而且他们在购买之前也进行了走访.

应诉人说，他们不允许转租，因为他们认为申诉人利用他们的财产来赚钱，即申诉人向她的室友收取超过一半的租金。 他们表示，申诉人是租约上唯一的人，因此也是唯一可以住在受影响单元的人。 如果有其他人要住在那里，就会被加租。应诉人说，虽然租约不允许养宠物，但他们允许该物业的一个租户养宠物，这是不一样的，因为宠物协议是他们和宠物主人之间的，不适用于申诉人.

应诉人作证说，《检查报告》说天花板的三个位置需要修复。 他们说，靠近卫生间的天花板开裂可能是水渍造成的，但其他位置不靠近水源，所以不可能是水渍造成的。 他们认为申诉人造成了这两个问题.

应诉人作证说，申诉人在出售房产时签署的禁止反言证书说，租约是完全有效的，Chi 先生和申诉人之间没有任何口头或其他书面协议，房东的所有义务都已完全履行，房东在租约中没有违约。 因此，应诉人说，由于申诉人签署了不容反悔的证明，因此她不得以居住性问题为由要求降低租金.

应诉人还说，他们希望记录在案的是厨房橱柜门的缺失，他们不希望申诉人后来声称这是应诉人的错。 他们还说，卧室的门上有锁，他们希望得到复制钥匙，他们希望建筑检查员检查受影响单元中增加的电源插座.

应诉人还证明，根据租赁协议，申诉人必须及时报告受影响单元的损坏情况。 他们还说，租约规定，房东负责维修，除非是租户的疏忽造成的，如果是租户的疏忽造成的损坏，租户要负责维修的费用。应诉人还作证说，水渍是很久以前发生的，申诉人没有早点把问题提交给市政府解决，所以她因此违反了租约规定.

应诉人还说，租约第 5 段说，只有申诉人住在受影响的单元，任何改变都需要得到房东的同意，并可能需要调整租金。 应诉人作证说，申诉人给他们发邮件说要增加一个室友， 应诉人回复说她可以增加一个室友，但应诉人会提高租金。应诉人说，虽然申诉人

在她的申诉中提到了由于自身医疗状况她需要有一个室友，但是应诉人从来没有收到过这方面的通知。应诉人说，如果是这样，申诉人需要提供医疗记录，证明她需要照顾.

应诉人作证说，申诉人在应诉人不知情或不同意的情况下两次记录了他们的谈话，他们对此感到震惊。 应诉人说，他们只是对申诉人仁慈和慷慨，为她提供了一份兼职工作以获得额外的收入，并允许她父亲住在那里，而法律规定她在六个月内只能有两个星期的客人.

Martha Manriquez

Manriquez 女士作证说，她是该物业的租户，当要求维修时，应诉人迅速作出反应。她说，她有一个坏了的炉子，Chi 先生没有采取任何措施，但应诉人在她要求更换新炉子的几天内就更换了炉子。 Manriquez 女士还作证说，应诉人更换了电灯开关、五年来一直不能正常工作的热水器、在停车区安装了照明设备、修复了洗衣房的照明设备，并修复了洗衣机.

Manriquez 女士还证实，申诉人有一个室友.

IV. 证据

以下文件是在听证会前提交的，并在无异议的情况下被标记和接受为证据:

听证官的证据

展示#1：山景城消防和环保部门 22 年 3 月 15 日对 1802 Higdon Avenue 的检查报告

展示 #2：听证官书面命令和听证前电话会议摘要通知以及要求根据《社区稳定和公平租金法》（CSFRA）定义调整租金的申诉的听证通知，日期为 2022 年 4 月 8 日

展示 #3：听证官根据《RHC 条例》第 5(C)(4)章提出的请求, 日期为 2022 年 4 月 7 日，以及服务证明, 日期为 2022 年 4 月 8 日

申诉人的证据

展示 #1：申诉书 B：未能根据《社区稳定和公平租金法》（CSFRA）的定义维持可居住的房舍或减少住房服务或维护，日期为 2022 年 3 月 3 日，并附有工作表 1-租金上涨和工作表 2-未能维持可居住的房舍

展示 #2: 已撤消

展示 #3: 申诉书 B 的附件

展示 #4: Haibo Chi、Xiaoqui An 和 Iris Martinez 的住宅租赁协议，日期为 2018 年 8 月 31 日

展示 #5: Haibo Chi 与 Iris Martinez 之间的短信，日期为 2019 年 11 月 19 日

应诉人的证据

展示 #1: Jane Xiang 给山景城租金稳定计划关于申诉书的电子邮件， 2022 年 3 月 7 日上午 10:08

展示 #2: Jane Xiang 给山景城租金稳定计划关于申诉书的电子邮件, 日期是 2022 年 3 月 7 日下午 4 点 56 分

展示 #3: Jane Xiang 抄送山景城租金稳定计划的电子邮件，关于 1802 Higdon 多家庭住房报告, 日期为 2022 年 3 月 21 日上午 12:25 的

展示 #4: Haibo Chi 给 Iris Martinez 的电子邮件，关于：2020 年年度租金调整，日期为 7/31/2020

展示 #5: CSFRA 申诉回复通知，无日期

展示 #6: 题为 "申诉答复通知的补充信息 "的文件，无日期

展示 #7: CSFRA 申诉回复通知，无日期，第 2 版

展示 #8: Haibo Chi 给 Iris Martinez 的电子邮件，日期为 8 月 1 日（无年份）

展示 #9: Iris Martinez 出具的日期为 2021 年 10 月 21 日的租户禁反言证明

展示 #10: Haibo Chi、Xiaoqui An 和 Iris Martinez 的住宅租赁协议，日期为 2018 年 8 月 31 日

展示 #11: 1802 Higdon 的补充评估通知，日期为 2022 年 2 月 4 日

展示 #12: Jane Xiang 给山景城租金稳定计划的电子邮件，关于：一个证人，日期为 2022 年 4 月 12 日

V. 提出的问题

1. 申诉人是否有资格因未能维护可居住的房屋而下调租金，因为据称存在以下情况：(a) 浴室地板不稳定；(b) 马桶持续流水；(c) 卧室和起居室的天花板有水损害；(d) 浴室和厨房墙壁发霉；(d) 水损害地毯未更换.

2. 应诉人是否非法扣留申诉人转租给室友的权利.

VI. 支持本决定的事实结论

1. 申诉人从小就住在受影响的单元。她的父母是 2001 年 1 月签订的租房协议的原租户。 受影响的单位是一个两居室的单位，该物业有四个出租单位.
2. 根据 2018 年 8 月 31 日的住宅租赁协议（"2018 年租约"），前房东 Chi 先生将申诉人列为租户；她的父母在 2018 年 7 月左右已经离开了美国.
3. 从 2018 年 7 月到 2021 年 10 月，申诉人与一位室友住在受影响的单元。 一位室友 Castro 女士从 2018 年 7 月至 2021 年 7 月 18 日从申诉人处转租，另一位室友从 2021 年 7 月底至 2021 年 10 月取代 Castro 女士的位置。之前的房东 Chi 先生知道这些室友，有提及他们的短信为证；但是，没有具体关于室友的实际书面或口头协议.
4. 应诉人于 2021 年 11 月 22 日购买了该物业.
5. 在购买该物业之前，应诉人收到了 Chi 先生的检查报告，并做了走访调查。 应诉人还收到了一份由申诉人签署的、日期为 2021 年 10 月 21 日的禁止反言证书。该禁止反言证书称，"房东和租户之间没有关于该房产的任何口头或书面协议或谅解"，"租户没有转让、转移或抵押其在租约下的权益"。 此外，它说，"房东在租约下的所有义务都已完全履行"。
6. 申诉人和应诉人之间没有书面的租赁协议；但是，他们一直在依靠 2018 年的租赁条款。目前，受影响单元的租金是每月 1457.00 美元。 戚先生最后一次加租是在 2020 年 9 月 1 日，从每月 1428.00 美元开始。 应诉人没有增加租金.
7. 2018 年的租约规定，申诉人是唯一居住在受影响单元的人，"任何占用情况的改变都需要得到房东的书面同意，并可能会对租金数额进行调整"。 它还说，"租户同意在未经房东书面许可的情况下，不转租租赁的房屋"。2018 年的租约说，一个两室一厅的出租单元限住 5 人。2018 年的租约还说，"租户承认，租户已经检

查了租赁房屋，在本租赁协议开始时，租赁房屋的内部和外部，以及所有设备和任何电器都被认为处于可接受的状态，并且工作状态良好。"

8. 该物业其他出租单位的租金如下。 1 号单元--1595.00 美元；3 号单元--约 1550.00 美元。 4 号单元，位于受影响单元的正上方，是一个 Airbnb 租房，租金在每晚 130.00 美元至 150.00 美元之间。 4 号单元最近进行了全面改造.
9. 在 2010 年之前的某个时候，污水从 4 号单元（受影响单元上面的出租单元）渗入受影响单元，造成浴室、客厅和一间卧室的天花板损坏。 它还渗入墙壁并损坏了地毯。 当时的房东没有对问题进行补救，因为租户无法将家具搬走，也无法在更换地毯时找到住处，因此，申诉人的父亲尽可能地清理了地毯.
10. 客厅的天花板上有一条鼓起的大缝，在一间卧室和浴室的天花板的其他部分有裂缝。申诉人承认，她剥掉了爆米花天花板的一部分，因为它有裂缝，但当她发现它可能对健康造成危害时就停止了.
11. 在 2018 年 8 月 6 日之前的某个时候，卫生间的墙壁和与卫生间共用的厨房墙壁上出现了霉菌。申诉人将这一问题告知她的前房东 Chi 先生，但 Chi 先生没有采取任何措施，所以她试图自己补救这一问题.
12. 2021 年 11 月 23 日，申诉人与应诉人谈及修理天花板的问题，据说天花板上有易碎的石棉，她应诉知，如果她想要修理东西，就必须支付更高的租金。他们还告诉申诉人，为了修理天花板，她必须搬出去.
13. 2021 年 11 月 23 日，在申诉人和应诉人讨论了天花板的问题后，应诉人 Xiang 女士开始在她的手机上向申诉人展示附近其他出租单位的照片，申诉人可以租用。申诉人建议，她可以搬到 4 号单元，即 Airbnb 单元，而应诉人修复受影响的单元，但应诉人拒绝.
14. 同样在 2021 年 11 月 23 日和 2021 年 12 月 7 日，申诉人要求允许她有一个室友，应诉人答复说，她不能在不增加租金的情况下有一个室友，因为另一个居住者会对受影响的单元造成磨损。应诉人 Xiang 女士也作证并在应诉人对申诉书的答复中写道，她收到申诉人的电子邮件，要求允许她有一个分租人，Xiang 女士答复说，如果申诉人支付更多的租金，她可以有一个分租人.
15. 通过 2021 年 12 月 1 日的电子邮件，申诉人告知应诉人，浴缸旁边的墙壁有霉菌，以及另一侧的厨房墙壁被损坏。 也是在同一时间，申诉人与应诉人讨论了受损的天花板和浴室地板 "发软 "的问题.

16. 针对申诉人的投诉，2021 年 12 月 7 日，应诉人 Xiang 女士带来了防霉喷雾，并告诉申诉人在浴室墙上使用该喷雾。 应诉人 Xiang 女士走进浴室，向申诉人展示了如何使用喷雾剂.
17. 2021 年 12 月 8 日，应诉人带了一名维修人员到受影响单元检查浴室。该维修人员说，他不能肯定地说出地板有什么问题，必须把地板打开才能诊断出问题。 当时，申诉人还向应诉人展示了浴室镜子后面墙上的一个洞.
18. 2021 年 12 月 30 日，应诉人的承包商修补了卫生间的墙壁以消除洞口，并于 2021 年 12 月 31 日，重新粉刷了卫生间。应诉人没有解决关于浴室地板的问题.
19. 2022 年 1 月 27 日，申诉人给应诉人发了一段视频，说马桶不停流水。 它是在 2022 年 1 月 20 日开始这样的。应诉人到受影响单元查看，并告诉申诉人，有一个部件需要更换，但由于马桶的年龄，他们无法更换。应诉人说，如果厕所的噪音不影响她，那就是 "可居住的"，他们会让它保持原状.
20. 2022 年 2 月 8 日，申诉人剥掉了几年前放在浴室地板上的瓷砖方块，这些方块覆盖了旧的油毡。 申诉人给应诉人发了一张旧地板的照片，说地板 "像我之前说的那样急需更换."
21. 2022 年 2 月 15 日，申诉人给应诉人发了一条关于浴室地板的短信，询问应诉人是否与他们的承包商讨论过这个问题。 应诉人说他们的承包商太忙了，没有时间处理这个问题，而且她联系的任何承包商都不会要这样一个小项目.
22. 2022 年 2 月 19 日，应诉人 Xiang 女士给申诉人发短信，问她下周一是否有时间让她看一下卫生间的地板，"想办法去除污渍"。 申诉人回答说，她将在晚上 7 点以后有空，她说："残留的污渍不是一个问题。 那些我可以自己清除。 我需要你帮助解决的是灰色的霉菌，浴缸边的霉菌，以及地板反弹和不稳定的问题。" 应诉人 Xiang 女士在下周一下午 2 点去了受影响的单元，申诉人不在那里.
23. 2022 年 3 月 2 日，应诉人 Xiang 女士给申诉人发了一条短信，说她已被告知市政府将进行检查，"在此之前，我和我丈夫想先检查一下，看看是否有什么可以改进的。让我知道什么时间对你合适"。 申诉人回答说："我被告知，在检查员来之前，我可以拒绝任何人进来。 我宁愿通过市政府来处理。我宁愿等待他们告诉我接下来该怎么做。 我不想说错话或做错事"。 被访者 Xiang 女士回答说："当然! 这是你的权利!"
24. 2022 年 3 月 3 日，申诉人提交了申诉书.

25. 2022 年 3 月 15 日，山景城的多户住房检查员 James Olson（"建筑检查员"）检查了该房产。检查后产生的检查报告列举了该物业的 12 项违规行为.
26. 检查报告指出，由于违反了《加州建筑法》第 3405 条，受影响的单元违反了 MFH-B05；具体而言，报告指出。 "获得所需的建筑许可来修复浴室地板，因为有明显的水渍迹象，导致底层地板不稳定，需要拆除现有的地板、盥洗室和马桶来更换受损的底层地板，在这些修复过程中，可能还需要更换浴缸."
27. 检查报告指出，受影响的单元也违反了 MFH-B05 和 CBC 第 3405 条，因为 "天花板显示左手卧室和客厅有水渍"，并要求应诉人 "找到原因并修复天花板，包括修补和油漆."
28. 检查报告指出，受影响单位违反了 MFH-P11 和《国际管道和机械法规》第 504.1 节，因为 "浴室水槽未能正常排水"，报告指出，"在开始浴室维修工作之前必须解决这个问题."
29. 检查报告还指出，受影响单元上方的出租单元曾在没有许可证的情况下被改造过.
30. 申诉人的专家证人的证词与检查报告一致，专家说底层地板和地板支撑因水渍而腐烂，这是一个安全问题，因为唯一能防止居住者从地板上掉下来的是旧油毡.

VI. 讨论

卫生间

1. 底层地板

建筑检查员的报告要求应诉人 "获得所需的建筑许可，以修复浴室地板，因为有明显的水损害迹象，导致底层地板不稳定，需要拆除现有的地板、盥洗室和马桶，以更换受损的底层地板[；]在这些修复过程中，可能还需要更换浴缸。" 这与申诉人的专家证人 Bob Earle 的证词是一致的，他说浴室的地板已经腐烂，当人们走过它时，感觉就像走在蹦床上。 Earle 先生和建筑检查员一样，认为这个问题是由水损害造成的，需要进行大规模的维修.

建筑检查员引用了 MFH-B05（涉及多户住房的规则），其中涉及水损害 re，指出 "应查明原因并予以纠正，所有受损表面应恢复到原来的状态"。 他还引用了加州建筑法第 3405 条。第 3405A.1 条规定，"建筑和结构及其部分应按照第 3405A 和 3401A.2 条的规定进行修复"。 第 3401A.2 条规定，"建筑和结构及其部分应保持安全和卫生的状态.....

为确定是否符合本条规定，建筑官员有权要求对建筑或结构进行重新检查。" 检查员对这些建筑法规条款的引用明确提出了安全问题。这也符合 Earle 先生的证词，即地板的状况是不安全的；他说，唯一能使申诉人不从地板上摔下来的是底层地板上的一层油毡，这显然是不安全的状况.

CSFRA 第 1710(b)(1)条规定："如果没有按照卫生、安全和建筑法规维护出租房，包括但不限于《民法》第 1941.1 条及以下条款和《卫生与安全法》第 17920.3 和 17920.10 条，则构成租金上涨。 租户可以向委员会提出申诉，根据房东未能维持出租单元的居住条件而造成的租值损失，向下调整租金。" 应诉人因没有按照《建筑法》的要求维护出租屋而被市政府通报，这完全属于第 1710(b)(1)条的范畴.

此外，《加州民法》第 1941 条规定，"用于人类居住的建筑物的出租人必须.....使其处于适合居住的状态，并修复其所有后续使其无法居住的破损。" 加州民法》第 1941.1(a)条规定，"如果住宅实质上缺乏以下任何肯定的标准特征，则应被视为无法租用.....（8）地板.....保持良好的维修。" 由于浴室的底层地板处于不稳定和不安全的状态，受影响的单元属于第 1941.1 节的范围，CSFRA 第 1710(b)(1)节特别引用了该法规。 受影响的单元没有按照卫生和安全法规进行维护，因此再次将其完全纳入 CSFRA 第 1710(b)(1)条的范围.

《加州健康和安全法》第 17920.3 条规定，"建筑物或其部分存在以下任何情况，以至于危及公众或居住者的生命、肢体、健康、财产、安全或福利，应被视为.....不合标准的建筑物：（b）（2）有缺陷或恶化的地板或地板支撑。" 很明显，受影响单元的浴室的地板和地板支撑已经严重老化，因此属于第 17920.3 条规定的范围。 由于没有按照这一健康和安全法律对受影响单元进行维护，因此属于 CSFRA 第 1710(b)(1)条的范围.

最后，《国际财产维护法规》第 305.4 条规定，所有 "行走表面 "应 "保持良好状态和维修"。 受影响单元的浴室地板没有得到适当的维护，因此也违反了这一法规条款。

因此，受影响单元的浴室底层地板的状况违反了许多与安全有关的州法规以及《建筑法》，显然使该状况属于 CSFRA 第 1710(b)(1)条的范围.

根据 CSFRA 第 1710(b)(2)条，声称未能维护可居住房屋的租户申诉书必须 "证明房东已获得合理的通知和机会来纠正构成申诉书基础的条件。" 2021 年 12 月 7 日，当应诉人 Xiang 女士进入受影响单元的浴室喷洒霉菌时，她不仅对浴室的潮湿问题和地板的状况有

推定的通知，因为她必须在地板上行走才能喷洒霉菌，而且她也有实际的通知，因为正如申诉人所作证，她在那次接触中告诉应诉人 Xiang 女士，地板是 "软的"。 申诉人作证说，当时，应诉人 Xiang 女士回应说，如果她要修复地板，就必须提高租金。应诉人作证说，在他们与申诉人见面的第一个日期，即 2021 年 11 月 23 日，申诉人告诉他们，地板是 "软的"，所以根据应诉人自己的说法，他们在 2021 年 12 月 7 日访问受影响单元的浴室前几个星期就已经注意到了。2022 年 2 月 8 日，申诉人给应诉人 Xiang 女士发了一条短信，其中有一张地板上的瓷砖被拆除的照片。 2 月 15 日，申诉人询问应诉人是否与他们的承包商谈过地板的问题. Xiang 女士回答说，她的承包商太忙了，没有时间看地板，所有其他承包商可能也太忙了。应诉作证说，当他们向承包商询问地板的情况时，承包商告诉他们必须打开地板才能看到问题所在，于是他们决定不打开地板。从证词中可以合理地得出结论，这次谈话大约发生在 2021 年 12 月承包商粉刷浴室的时候。2 月 19 日，应诉人 Xiang 女士问她是否可以在下周一来看看地板，申诉人回答说她会在晚上 7 点以后回家，应诉人决定改在下午 2 点过去，而申诉人不在。在 2 月 19 日的短信中，申诉人重申她对浴室的霉菌和 "地板弹跳和不稳定的事实 "感到担忧.

根据他们自己的证词，应诉人在 2021 年 11 月就已经实际注意到了浴室地板的问题 [1]。应诉人还没有让承包商提供修复地板的估价。 他们作证说，在建筑检查员对他们的危险状况提出警告后，他们自行获得了维修许可证。到听证会时，即检查后的一个多月，应诉人有足够的时间至少开始对地板进行维修，即请一个承包商来提供估价，但他们没有这样做。 申诉人已经履行了她的责任，即证明应诉人已经注意到该状况并有机会进行补救.

应诉人认为，申诉人在检查前阻挠了他们修复地板的努力。应诉人在对申诉书的答复中说，2022 年 3 月 2 日，在通知应诉人多户住房计划的检查员将检查受影响的单元后，他们给申诉人发短信，要求她允许他们进入 "先检查一下，看看是否有什么可以改进的地方 "。 申诉人回短信说："[市政府]告诉我，在检查人员来之前，我可以拒绝任何人进入。" 如上所述，在这一点上，应诉人知道或应该知道浴室的地板有问题，他们在接到检查通知前没有努力修复，检查后也没有取得实际进展. 证据并不支持应诉人关于申诉人阻挠他们修理地板的说法。 申诉人并没有阻止应诉人的承包商在 2021 年 12 月进入浴室重新抹灰和刷漆，而且根据证据，如果应诉人的承包商来查看地板，申诉人很可能会欢迎他。 事

[1] 更可能的情况是应诉人在购买该物业前就已经注意到地板状况，因为他们作证说他们收到一份检查报告并在购买前进行了物业检查

实上，2022 年 2 月 15 日，申诉人询问应诉人的承包商何时处理地板问题，表现出希望开始维修的愿望。应诉人很清楚，他们可以在向申诉人提供必要的通知后，让他们的承包商进入受影响的单元，这也是他们在承包商粉刷浴室时必须做的，因为申诉人在粉刷时不在场。申诉人依靠市政府雇员告诉她，她可以拒绝让应诉人进入，直到建筑检查员检查之后，这是合理的.

应诉人还争辩说，他们不应该对浴室的状况负责，因为它在他们购买该物业之前就已经存在，应该由以前的房东进行维修。 虽然应诉人发现自己处于不幸的境地，处理整个物业多年来被忽视的问题，但在 CSFRA 中，没有任何地方可以免除房东维护其物业的责任，因为该状况在他们购买物业之前就已经存在。 CSFRA 第 1702(j)条将房东定义为 "业主、出租人、转租人或任何其他有权因使用和占用任何出租单元而获得租金的人，或上述任何一方的代理人、代表、前任或继承人"。 因此，CSFRA 对房东的定义范围很广，包括房主及其继承人. CSFRA 显然是为了涵盖财产易手的情况，就像本案一样，一个人不能通过声称自己是前业主的继承人而免除自己在 CSFRA 下的责任。 第 1710(b)(2)条非常简单地规定，租户可以根据该条规定对 "房东未能将出租单元维持在可居住状态 "提出申诉。 在该条例的明文规定中，没有任何内容可以免除房东的责任，因为不适合居住的情况是在房东购买房产之前就开始了。 事实上，这与 CSFRA 的目的相悖，CSFRA 的目的是 "促进健康住房"（第 1700 条）。 如果因为房东购买了一栋不适合居住的楼房而免除其维持可居住性的责任，将纵容贫民窟住房的长期存在.[2] 判例法还规定，在购买之前存在不安全或不健康的条件，并不能免除后来房东的维修责任。(见 Knight v. Halltshammar, 29 Cal.3d 46, 57 (1981); Sierra Asset Servicing, LLC, 226 Cal.App.4th 1281, 1295 (2014).)

应诉人还辩称，他们对浴室的状况不负责任，因为是申诉人造成的。 没有证据表明申诉人造成了水的入侵，而建筑检查员和申诉人的专家都认为水的入侵是造成浴室地板损坏的原因.

应诉人还辩称，申诉人被禁止提出可居住性问题，因为她在出售时签署了一份禁止反言证明，其中说 "房东在租约下的所有义务都已完全履行"。 他们还辩称，Chi 先生和申诉人

[2] 鉴于应诉人作证说，他们得到了一份检查报告，并在购买该物业之前进行了走访，他们应该在购买之前就知道该物业状况的所有问题。申诉人作证说，应诉人 Xiang 女士告诉她，在应诉人之前有一个买家因为该物业的状况有太多问题而退出了购买合同。应诉人对这一证词没有异议.

之间的 2018 年租约在第 15A 段中写道："租户承认，租户已经检查了租赁房屋，在本租赁协议开始时，发现租赁房屋的内部和外部，以及所有设备和任何电器都处于可接受的状态，工作状态良好。" CSFRA 第 1713 条禁止房东胁迫租户放弃他们在该条例下的权利。"出租房屋协议的任何条款，无论是口头的还是书面的，如果意图放弃本条为租户利益而制定的任何条款，都应被视为违反公共政策，应属无效。" 因此，任何试图让租户放弃他或她对可居住的出租单元的权利的行为都是无效的，这在 CSFRA 中是有规定的. 此外，根据加州法律，这种放弃也是无效的。 加州民法》第 1942.1 条规定："住宅的租户放弃或修改其在第 1941 或 1942 条下的权利的任何协议都是无效的，因为它违反了关于使房舍无法租用的任何条件的公共政策..." 这些条款背后的理由是业主和租户之间不平等的讨价还价能力（见 Green 诉高等法院，10 Cal.3d 616, 625 (1974)）；租户经常不敢抱怨缺乏维护或需要修理，因为害怕被直接驱逐或推定驱逐，Arnulfo Martinez 的证词证明了这一点，他没有催促业主在洪水后修理受影响的单元，因为他担心被驱逐. 因此，判例法规定，即使租户在知道租赁单元不适合居住的情况下搬进去，或者在租赁单元不适合居住的情况下仍然留在那里，租户仍然可以主张他或她对可居住的租赁单元的权利（见 Knight 诉 Halltshammar, supra, 29 Cal.3d at 54, 59 and Smith 诉 David, 120 Cal.App.3d 101, 110 (1981)）。根据 CSFRA 和加州成文法和判例法，申诉人不能通过签署 2018 年的租约来放弃她对可居住的出租单元的权利，而且，她也不能通过签署禁止反言证书来放弃她的权利，因为这样做会使房东根据 2018 年的租约修复受影响单元的责任失效.

应诉人还争辩说，申诉人被禁止提出可居住性问题，因为她在 Chi 先生拥有该物业时没有向市政府提出这些问题。 再次，CSFRA 中没有任何规定要求租户必须向以前的房东提出缺乏维修的问题，才能向现在的房东提出，而且，正如已经讨论过的，不能放弃对居住性的保证。适用于向前房东提出可居住性问题的法律推理同样适用于向市政府提出这些问题，因为向市政府提出问题实际上等同于通知房东；一旦通知市政府，房东很快就会发现。鉴于应诉人已经修复了公共区域的一些先前存在的状况，而且他们为 Manriquez 女士更换了一个 Chi 先生知道而没有修复的炉子，也许应诉人事实上应该被禁止提出这个论点，因为他们的行动承认他们对物业先前存在的状况负有责任. 此外，申诉人作证说，她在这个时候找市政府，只是因为她觉得应诉人没有认真对待她的投诉，这也是她在以前的房东那里遇到的问题，还因为应诉人 Xiang 女士说，如果她必须进行维修，她会提高租金。在应诉人 Xiang 女士这样说之后，申诉人觉得她必须向市政府了解她的权利是什

么[3]。 允许房东提出这一论点，将纵容违反 CSFRA 的行为，并对租户行使其权利产生寒蝉效应.

由于上述原因，申诉人已经履行了她对浴室地板的举证责任，并有权向下调整租金.

2. 厕所

厕所因漏水而持续运行，这一点没有争议。 申诉人通知了应诉人，应诉人评估了这个问题，并告诉申诉人，如果这个问题不影响她，她应该保持现状，因为应诉人无法得到修理的零件。检查报告》没有涉及马桶流水问题。虽然马桶流水看起来微不足道，但它造成了巨大的水浪费，每年可能有 8,000 加仑的水 (https://www.usgs.gov/special-topics/water-science-school/science/water-qa-does-little-leak-my-house-really-waste-water-0)

此外，《国际物业维护规范》第 504.1 条要求："管道装置应得到适当的……维护……并保持无……泄漏。" 尽管有漏水，马桶仍然可以使用，但毫无疑问，它没有得到适当的维护.

CSFRA 第 1710(c)条规定："住房服务或维修的减少，或出租房的恶化超过了正常的磨损，而没有相应减少租金，则被认为是租金的增加."

申诉人于 2022 年 1 月初通知应诉人漏水的情况，而应诉人则试图迅速修复。 在对申诉书的答复中，应诉人表示，他们解决了受影响单元的发霉情况，他们一直在 "尽力应对一切，确保生活状况良好……我已经为该物业处理并解决了多个问题。"应诉人作证说他们已经修复了许多情况，主要是在公共区域。因此，很明显，应诉人明白，他们有责任将该物业维持在可居住的条件下.[4]

正如应诉人所证实的那样，他们没有更换马桶中导致马桶运行的部件，因为由于马桶的年龄，该部件已不再可用。 当时，适当的反应是更换马桶或叫一个有执照的水管工，但这些选择没有被考虑。最终，申诉人的父亲修复了马桶。这也许说明了一个事实，即应诉人没有资格修理马桶，应该请专业人员来修理. 鉴于应诉人作证说他们维护物业是正常的，让马桶一天 24 小时运行相当于减少维护，因此需要根据第 1710（c）条向下调整租金.

[3] 根据 CSFRA 第 1707 和 1710 规定，房东做出维修之后提高租金是不合法的，除非房东提出向上调整租金的适当申请并就这个调整得到批准。

[4] 值得注意的是，大部分的维修都是在公共区域，可以推测，这些维修对应诉人的 Airbnb 业务特别有利.

天花板

天花板上有一条倒扣的缝，表明有水渍。 检查报告指出，"天花板显示左侧卧室和起居室有水渍，找到原因并修复天花板，包括修补和粉刷。" 报告》对这一问题提到了与卫生间地板相同的《建筑法》条款。 报告》要求应诉人找到原因并进行补救，而不仅仅是修补和粉刷，这表明了对可能存在的泄漏的担忧。 事实上，幸运的是，天花板并没有倒塌.

申诉人和应诉人都证实，他们在 2021 年 11 月 23 日的第一次会议上讨论了天花板的状况，当时他们讨论了天花板对健康的危害。 当时，应诉人告诉申诉人，如果申诉人不搬走，他们就无法修理天花板，而应诉人 Xiang 女士 "出于好意 "开始在她的手机上向申诉人展示附近其他较小出租单位的照片。 申诉人向 Xiang 女士建议，在维修期间，申诉人可以搬到她上面的出租单元，但 Xiang 女士拒绝了.

未能按照《建筑法》维护天花板，违反了 CSFRA 第 1710（b）（1）条。 此外，应诉人在 2021 年 11 月 23 日就意识到了天花板的问题--事实上是他们提出来的，因此他们有足够的时间请人检查并提出补救计划，但他们没有这样做。 因此，申诉人有权就这一条件下调租金.

应诉认为，申诉人造成了天花板的问题，因此他们不应该对这个问题负责。申诉人承认，她曾刮掉了一部分爆米花天花板，因为其中有裂缝。 但是，没有证据表明她导致了天花板的接缝或裂缝的产生。 事实上，建筑检查员确定，天花板的状况表明漏水。 申诉人不可能导致她自己的天花板漏水.

霉菌

在检查时，没有明显可见的霉菌存在，而且申诉人无法向建筑检查员展示据称在厨房中受损的墙壁。 因此，她没有达到她的举证责任，即在这个问题上有必要下调租金。 但是，如果这个问题再次出现，如果应诉人在合理的时间内没有解决，申诉人可以提出新的申诉。 假设在修复地板和/或天花板的过程中，如果发现了霉菌，应诉人将采取必要的措施进行补救，而不是简单地在上面涂抹.

地毯

检查报告中没有讨论地毯的状况。 经检查，它看起来很旧，但可以使用，而且很可能因为申诉人的精心维护而处于体面的状态。它的状况并不比其他两个有地毯的单位的地毯明显差。 申诉人没有达到她的举证责任，即在这个问题上有必要下调租金.

分租

根据 CSFRA 第 1705(a)(2)(A)条，如果 "符合以下要求，租户转租给室友并不违反租约。(i) 租户继续居住在出租单元作为他、她或他们的主要住所：(ii) 分租人取代一个或多个离开的租户.....；(iii) 业主在租户提出书面要求后不合理地拒绝了分租的权利。" 房东可以拒绝转租，理由是 "出租单元的总人数超过了《统一住房法》第 503(b)条规定的最高人数，该条被《健康与安全法》第 17922 条所采纳。" 第 503(b)条部分规定 "每个用于睡眠的房间的表面积应不少于 70 平方英尺。当两个以上的人占用一个用于睡眠的房间时，所需的表面积应按超过两个人的每一个人增加 50 平方英尺的比例增加（强调）"。 因此，可以假设出租单元的每间卧室可能有两个人居住.

申诉人已经履行了她在 CSFRA 第 1705(a)(2)(A)节(i)和(ii)方面的举证责任。 申诉人从小时候起就一直居住在受影响的单元，并将继续与分租人居住在受影响的单元。 任何搬入申诉人的分租人将取代以前的分租人。 申诉人和 Castro 女士作证说，Castro 女士从 2018 年 7 月到 2021 年 7 月 18 日与申诉人一起住在受影响的单元。 申诉人和 Castro 女士作证说，Castro 女士的名字不在租约上，她直接向申诉人支付她应得的租金，然后申诉人向 Chi 先生支付全部租金，这使 Castro 女士成为分租人，因为她与 Chi 先生不存在合同关系。 申诉人作证说，另一位室友也是分租人，从 2021 年 7 月底到 2021 年 10 月与她一起住在受影响的单元。 申诉人出示了一条短信，表明 Chi 先生承认申诉人当时有一个室友住在受影响的单元里.

关于第(iii)款，申诉人似乎以书面形式请求应诉人允许其拥有分租人，因为应诉人作证说，申诉人向他们发送了一封请求允许的电子邮件，而应诉人答复说，申诉人可以拥有一个分租人，但她必须支付更高的租金.[5] 然而，CSFRA 有非常详细的规定，当房客想更换室友时，必须通知房东和租房委员会（见 CSFRA 规定，第 9 章，E 节），没有证据表明申诉人要求更换室友时遵守了这些规定；因此，她没有履行她在这方面的举证责任。 然

[5] 应诉人在对申诉的答复中还称，有一封电子邮件中，应诉人同意转租，但要增加租金.

而，这并不排除申诉人在未来转租的权利；如果申诉人希望在未来申诉转租许可，她可以这样做，只要她遵循 CSFRA 规定的程序.

虽然转租问题已经确定，听证官不需要处理剩下的应诉人是否不合理地扣留转租许可的问题，但听证官将提供一些意见作为指导.

问题是，以提高租金为条件允许转租是否是不合理的不允许转租的行为。 CSFRA 第 1707 条规定，每年只允许在年度总调整额中增加租金一次。在大多数情况下，根据第 1705(a)(2)(A)条进行的转租并不赋予房东超过第 1707 条规定的租金增长的权利。 CSFRA 条例第 9 章 C.4.b 条规定如下。"除上述 C.4.a.小节规定外，一个或多个额外居住者使用和占用覆盖的出租单元.....本身并不授权任何租金上涨。 C.4.a 小节允许将租金提高到市场价格，只有当出租屋内没有原来的居住者时。 正如前面所讨论的，申诉人是原住户，因此，应诉人以提高租金为条件允许转租是不合法的.

应诉人认为，2018 年的租赁条款不允许转租。他们说，2018 年的租约规定，申诉人是唯一居住在受影响单元的人，因此是唯一允许居住的人。2018 年的租约第 5 段确实说申诉人是唯一居住在那里的人，"任何居住的改变都需要房东的书面同意，并可能被调整租金数额"。如上所述，这一关于增加居住者而增加租金的规定受 CSFRA 的约束，在这一特定情况下，该条例不允许. 租约第 30 段还说，"租户同意在未经业主书面许可的情况下不转租租赁的房屋"。 因此，申诉人需要获得应诉人的书面许可，根据第 1705(a)(2)(A)条的规定，不得不合理地拒绝许可。这种拒绝转租许可的合理、善意理由的要求与加州法律是一致的（见《民法》第 1995.260 条和 Kendall 诉 Ernest Pestana, Inc., 40 Cal.3d 488 (1985).)

应诉人认为，"禁止反言证书 "阻止申诉人转租，因为它确认 "房东和租户之间没有关于该房屋的口头或书面协议或谅解"，除非在禁止反言证书中有所规定。 没有证据表明申诉人和 Chi 先生之间有任何附带协议。 Chi 先生和申诉人从未讨论过转租问题，所以不可能有任何协议或谅解。 申诉人每次将受影响的单元转租给一个室友，而 Chi 先生对此不闻不问，放弃了反对的权利。 甚至不清楚在 2021 年 10 月 21 日申诉人签署禁止反言证书时，是否有室友住在受影响的单元。 此外，禁止反言证书在其申明中没有列出转租；它只是说 "租户没有转让、转移或抵押其在租约下的利益"。

应诉人认为，他们不想让申诉人转租的另一个原因是，他们认为她在利用他们的财产赚钱，也就是说，他们认为申诉人向她的分租人收取的租金超过了他们应得的份额。 没有证据支持这些指控；事实上，Castro 女士非常清楚，她支付一半的租金。 此外，根据 CSFRA 条例第 9 章 C（3）节，申诉人不得从分租人那里获利，根据 C（1）节，应诉人可以向分租人询问他们向申诉人支付多少钱以及以何种形式支付.

最后，申诉人在申诉书中说，应诉人告诉她，由于受影响单元的额外磨损，如果她要转租，他们将不得不提高租金。 2018 年租约第 18 段规定，对于一个两居室的公寓，居住人数限制为 5 人。 鉴于 2018 年的租约规定，以及《统一住房法》第 503(b)条允许每间卧室有两名居住者，磨损的说法似乎并不合理.

租金下调的计算方法

剩下的问题是，如何计算由于浴室的不安全状况、天花板的水渍以及未能适当维护厕所而导致的租金下调。 至于地板和天花板，不安全或不健康的条件的损害赔偿通常以两种方式之一来确定：计算受影响单位的公平租金价值（如果它已被证明）和受影响单位目前现有条件下的公平租金价值之间的差异，或通过减少使用的百分比，这将涉及减少申诉人的租金义务，其百分比与不安全或不健康的条件造成的受影响单位的相对减少的使用相等。(见 Green v. Superior Court, at 638, 639 fn. 24.) 在这个特定情况下，没有专家对有担保的公平租值或有缺陷的公平租值提供证词，因此这种方法很难使用。 这就只剩下了使用百分比减少法.

关于浴室，虽然申诉人*可以*使用浴室，但她确实*不应该*使用，因为她有穿过地板的危险。因此，浴室的价值已降至 0.00 美元。 受影响的单元有五个房间：一个厨房，两个卧室，一个客厅和浴室。 月租金 1457.00 美元除以房间数（5），每个房间的租金为 291.40 美元。 由于卫生间应该有 291.40 美元的价值，但实际上却没有价值，因此因无法安全使用卫生间而下调的租金为 291.40 美元。 考虑到马桶是浴室的一部分，如果因为马桶有噪音而进一步降低租金是不公平的，所以对这种情况的降低是 0.00 美元。然而，如果浴室被修复，而马桶没有被永久修复或更换，则租金应只减少一次，总额为 650.00 美元，用于支付新马桶的费用和安装。浴室的总减额为 291.40 美元，或受影响单元总租金的 20%.

关于客厅和卧室的天花板，由于受到水的损害，这些房间基本上仍然可以使用。 天花板还没有塌陷，人们希望它永远不会塌陷。 然而，任何时候，只要天花板有水渍，就有理

由担心天花板会塌陷。 申诉人有权获得这一风险的赔偿，金额为受影响的两个房间总价值的 5%。 如果每个房间价值 291.4 美元，那么两个房间价值 582.8 美元，其中的 5%是 29.1 美元，这相当于总租金的 2%以下.

受影响单位的每月租金下调总额为 291.40 美元加 29.10 美元，等于 320.50 美元.

接下来的问题是下调的时间框架。 关于浴室，应诉人大约从 2021 年 12 月初开始就收到了通知。 在听证会之前，他们有大约五个月的时间来调查和纠正这一状况。 三个月--到 2022 年 2 月--本应是取得实质性进展的合理时间，但至今没有取得任何进展 [6]。 因此，从 2022 年 3 月 1 日开始，租金将减少 291.40 美元，直到城市建筑检查员对浴室地板的维修签字，并安装一个新的或永久修复的马桶.

关于天花板，应诉人从 2021 年 11 月底开始就知道这个问题。 三个月本来是取得实质性进展的合理时间，但至今没有取得任何进展。 因此，从 2022 年 3 月 1 日开始，租金将每月减少 29.10 美元，直到城市建筑检查员签署天花板的维修.

因此，应诉人欠申诉人 2022 年 3 月、4 月和 5 月已经支付的租金，每月下调 320.50 美元，即 961.50 美元。 从 6 月开始，应诉人将欠申诉人每月 320.50 美元的租金下调，直到按照本命令的指示进行维修为止.

一旦卫生间的地板按照这里的指示修复，租金将每月增加 291.40 美元。 一旦天花板按照这里的指示修复，租金将每月增加 29.10 美元.

见附件 1，该表记录了给予租户的租金下调以及每月减少租金的抵免表，如下文第九节所述.

VIII. 法律的结论

1. 由于浴室地板的不安全状况，申诉人有权要求下调租金。 这种状况违反了《加州建筑法》第 3405 条等，以及《加州民法》第 1941.1 条等，和《加州健康与安全法》第 17920.3 条，因此属于 CSFRA 第 1710(b)(1)条的范围。 根据 CSFRA 第 1710(b)(2)条，向应诉人提供了通知和补救的机会.

[6] 由于 CSFRA 要求房东要收到通知并有机会修补，看起来在计算租金下调时需要考虑给维修一个合理时间段。

2. 申诉人有权因卧室和起居室天花板的水渍而下调租金，因为这违反了加州建筑法第 3405 条及以下规定，因此属于 CSFRA 第 1710(b)(1)条的范畴。 根据 CSFRA 第 1710(b)(2)条，向应诉人提供了通知和补救的机会.
3. 根据 CSFRA 第 1710(c)条，申诉人有权因未能适当维护厕所而下调租金，这构成了维护费用的减少.
4. 申诉人没有履行她的举证责任，以获得对浴室发霉的指控进行下调租金.
5. 申诉人没有履行她的举证责任，以获得关于需要更换地毯的指控的租金下调.
6. 根据 CSFRA 第 1705(a)(2)(A)条，如果申诉人将来想转租给室友，她必须遵守 CSFRA 条例第 9 章 E 节规定的通知要求，而应诉人必须遵守 CSFRA 以及加州法律.

IX. 决定

1. 应诉人欠申诉人 961.50 美元，作为 3 月、4 月和 5 月的租金下调。 应诉人应以三个月租金抵扣的形式将此金额退还给申诉人。 因此，申诉人所欠 2022 年 6 月的租金应减少 320.50 美元，为 1136.00 美元；2022 年 7 月的租金应减少 320.50 美元，为 1136.00 美元；2022 年 8 月的租金应减少 320.50 美元，为 1136.00 美元.
2. 从 2022 年 6 月开始，此后的每个月，只要浴室的地板和天花板没有按照这里的命令进行维修，申诉人的租金应减少 320.50 美元。因此，在 6 月、7 月和 8 月，除了上述第 1 项所讨论的租金减免外，应诉人将再减少 320.50 美元的月租金，即 816.00 美元。 从 2022 年 9 月开始，如果维修尚未完成，租金将恢复到 1136.00 美元.
3. 如果卫生间的地板和马桶按照这里的命令进行了维修，也就是说，在城市建筑检查员对卫生间地板的维修进行签字，并安装一个新的或永久维修的马桶时，申诉人的租金应每月增加 291.40 美元，达到 1427.40 美元.
4. 如果天花板按照这里的命令进行了修理，也就是说，城市建筑检查员签署了对天花板的修理，申诉人的租金应增加 29.10 美元，达到 1165.10 美元.
5. 如果卫生间的地板、马桶和天花板同时进行维修，申诉人的租金应增加到每月 1457.00 美元.

6. 如果马桶没有按照本协议的要求在完成浴室维修的同时进行永久维修或更换，应诉人应在此时减少 650 美元的租金。 这将是一次性的租金减免.
7. 本协议规定的对租户的抵免对应诉人的任何利益继承人或受让人来说都是可执行的.
8. 如果申诉人或应诉人在适用本决定所命令的租金抵免之前终止申诉人的租约，当时所欠的总金额应立即到期并支付给租户，如果没有支付上述金额，申诉人应有权在小额索赔法院或任何其他行政或司法或准司法程序中获得未适用租金抵免金额的金钱判决.
9. 如果申诉人有必要搬出受影响的单元以进行维修，CSFRA 第 1705(a)(6)条应适用，第 1705(b)条也应适用.
10. 根据 CSFRA 第 1707(f)(2)和(3)条的规定，在受影响单元的状况符合 CSFRA 的要求之前，应诉人不得对受影响单元进行加租。 届时，任何租金上涨都应遵守 CSFRA 第 1707 和 1710 条的规定.

如是裁定.

_____ 日期: _____

听证官 Barbara M. Anscher

ATTACHMENT 2

见附件1

下调租金			
请愿问题	减少的金额（每月的租金）	时间段	迄今为止的削减总额
浴室地板和厕所（"浴室"）	$ 291.40	2022年3月1日以后，直到城市建筑检查员签署修理浴室地板和安装新的/永久修复的厕所	$ 874.20
卧室和客厅的天花板（"天花板"）	$ 29.10	2022年3月1日起，直到城市建筑检查员签署对天花板的维修	$ 87.30
霉菌	$ -		$ -
地毯更换	$ -		$ -
分租人	不适用		不适用
	$ 320.50		$ 961.50

学分表*					
月/年	2022年3月、4月和5月的租金返还金额（以每月租金计算）	减少的金额（每月的租金）	减少的租金总额	根据听证官的决定，每月所欠租金总额	进一步说明
2022年6月	$320.50	$320.50	$641.00	$816.00	这是2022年3月、4月和5月的租金下调，此外，根据听证官书面决定（IX.1-2），每个月的租金也被下调.
2022年7月	$320.50	$320.50	$641.00	$816.00	
2022年8月	$320.50	$320.50	$641.00	$816.00	
2022年9月**	不适用	最多$320.50美元	最多$320.50美元	至少$1,136.00美元	如果浴室和天花板的问题都没有修复，租金将继续每月减少320.50美元。如果只有天花板没有修复，租金将继续每月减少29.10美元。如果只有浴室没有修复，租金将继续每月减少291.40美元。如果厕所仍未修复或尚未更换，租金应减少650.00美元，这只是一次性的减少.

*如果申请人或被申请人在适用租金抵免之前终止申请人的租约，根据听证官书面决定（IX.8，申请人应有权获得金钱判决。）

**根据听证官的书面决定（IX.2-IX.6），如果尚未修复，租金将恢复到每月1136.00美元。

City of Mountain View

Rent Stabilization Program

(650) 903-6149 | mvrent@mountainview.gov
Mountainview.gov/rentstabilization

COMMUNITY STABILIZATION AND FAIR RENT ACT (CSFRA)
REQUEST FOR APPEAL OF PETITION HEARING DECISION

Communications and submissions during the COVID-19 Pandemic: To the extent practicable, all communications, submissions and notices shall be sent via email or other electronic means.

Any Party to a petition may appeal the Decision by *serving a written Request for Appeal on all applicable parties and then filing a copy of the completed form with the City* within **ten (10) calendar days** after the mailing of the Petition Decision. If no Appeals are filed within ten (10) calendar days, the decision will be considered final.

I hereby Appeal the Hearing Officer's Decision for the following Petition to the Rental Housing Committee:

Petition Case Number: _____

Name of Hearing Officer: _____ Decision Date: _____

For the following Property Address, including Unit Number(s), if applicable:

_____

(Street Number) (Street Name) (Unit Number)

Person Appealing the Hearing Officer Decision *(if more than one person is appealing the petition decision, attach their contact information as applicable)***:**

Name: _____ Phone: ( )

Mailing Address: _____ Email: _____

I am: ☐ A tenant affected by this petition. ☐ A landlord affected by this petition.

Reason for Appeal:

Please use the space below to clearly identify what issue and part of the Decision is the subject of the appeal (include section headings and subheadings, as necessary). Thoroughly explain the grounds for the appeal. For each issue you are appealing, provide the legal basis why the Rental Housing Committee should affirm, modify, reverse, or remand the Hearing Officer's Decision. *(continue on the next page; add additional pages if needed)*

Filing Instructions:

Once you have completed this form and attached all relevant documents, **serve all parties with complete copies** before formally filing the Appeal with the City. Once served, please file a copy of the completed form with the City of Mountain View via email (preferred method) to patricia.black@mountainview.gov or by mailing to 500 Castro Street, Mountain View, CA 94041.

Declaration:

I (we) declare under penalty of perjury under the laws of the State of California that the foregoing and all attached pages, including documentation, are true correct, and complete.

Signature: _____ Date: _____

Print Name: _____

City of Mountain View

Rent Stabilization Program

(650) 903-6149 | mvrent@mountainview.gov
Mountainview.gov/rentstabilization

Reason for Appeal *(Continued)*

Rent Stabilization Program

(650) 903-6149 | mvrent@mountainview.gov
Mountainview.gov/rentstabilization

Proof of Service of Request for Appeal of Petition Hearing Decision

I declare that I am over eighteen years of age, and that I served one copy of the attached Appeal of Petition Hearing Decision after Remand on the ***affected party(ies) listed below by***:

☐ **Personal Service**

Delivering the documents in person on the ____ day of _____, 20____, at the address(es) or location(s) above to the following individual(s).

☐ **Mail**

Placing the documents, enclosed in a sealed envelope with First-Class Postage fully paid, into a U.S. Postal Service Mailbox on the ____ day of _____, 20____, addressed as follows to the following individual(s).

☐ **Email**

Emailing the documents on the ____ day of _____, 20____, at the email address(es) as follows to the following individual(s).

Respondents

RESPONDENT NAME

RESPONDENT ADDRESS

RESPONDENT EMAIL

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Executed on this _____ day of _____, 20_____

Signature: _____

Print Name: _____

Address: _____

City of Mountain View

租金稳定项目

(650) 903-6149 | mvrent@mountainview.gov
Mountainview.gov/rentstabilization

社区稳定和公平租金法案(CSFRA)

对申述听证会决定上述的请求

***COVID-19 大流行病期间的通信和提交*: 在可行的范围内，所有的通信、提交和通知都应通过电子邮件或其他电子手段发送.**

申述的任何一方都可以对决定提出上诉，方法**是向所有适用方送达**书面上诉请求，然后在申述决定邮寄后的**十（10）个日历日**内向本市提交一份完整的表格副本。如果在十（10）**个日**历日内没有提出上诉，该决定将被视为最终决定.

我在此就听证官对以下申述的决定向出租房屋委员会提出上诉:

申述案件编号: _____

听证会官员姓名: _____ **决定日期**: _____

以下是物业地址，包括单元号（如适用）:

_____

(**街道号**码) (**街道名称**) (单元号码)

对听证官决定提出上诉的人*(如果不止一个人对申述决定提出上诉，请酌情附上他们的联系信息)*:

姓名: _____ 电话: ( )

邮寄地址: _____ 电子邮件: _____

我是: ☐ **受**该申述书影响的租户. ☐ **受**该申述书影响的房东.

上诉的原因:

请在下面的空白处**明确指出上**诉的主题是什么和《决定》的哪一部分（必要时包括章节标题和副标题）。彻底解释上诉的理由。對於你所提出的每一個問題，請提供法律依據，說明出租房屋委員會為什麼要確認、修改、推翻或發還聽證官的決定。(**在下一**页继续；如果需要，可增加页数)

填写说明:

一旦你完成本表并附上所有相关文件，在正式向市政府提出上诉**之前，向所有各方提供完整的副本. 一旦送达**，请通过电子邮件（首选方法）将填妥的表格副本提交给山景城市府的 patricia.black@mountainview.gov，**或**邮寄到 500 Castro Street, Mountain View, CA 94041.

声明:

我（**我**们）根据加利福尼亚州的法律，在作伪证的惩罚下声明，上述内容和所有附页，包括文件，都是真实、准确和完整的.

签名: _____ **日期**: _____

打印姓名: _____

City of Mountain View

租金稳定项目

(650) 903-6149 | mvrent@mountainview.gov
Mountainview.gov/rentstabilization

上诉的原因（续）

租金稳定项目

(650) 903-6149 | mvrent@mountainview.gov
Mountainview.gov/rentstabilization

请愿听证会决定上诉请求书的送达证明

我声明我已年满十八岁，并且我已通过以下方式向***下列受影响方***送达了所附的《上诉请求听证会发回重审后的决定》的一份副本:

☐ **个人服务**

在_____日，20____年，**按上述地址或地点**，亲自将文件交给以下人员.

☐ **信件**

于 20_____年，____日，**将**这些文件装在一个密封的信封里，并付一级邮资（First-Class），放入美国邮政服务邮箱，地址如下，发给以下个人.

☐ **电子邮件**

在_____日，20____年，**将**这些文件通过电子邮件发送给以下人员.

答复者

答复者姓名

答复者地址

答复者电子邮件

我在加利福尼亚州法律规定的伪证处罚下声明，上述内容是真实和正确的:

于_____月，_____日，20_____年，执行

签名: _____

打印姓名: _____

地址: _____

PROOF OF SERVICE

I declare that I am over eighteen years of age, and that I served copies of the following documents on the ***affected party(ies) listed below by***:

NOTICE OF HEARING OFFICER WRITTEN DECISION
HEARING OFFICER WRITTEN DECISION
BLANK APPEAL REQUEST FORM

☐ **Personal Service**

Delivering the documents in person on the ____ day of _____, 20____, at the address(es) or location(s) above to the following individual(s).

☒ **Mail**

Placing the documents, enclosed in a sealed envelope with First-Class Postage fully paid, into a U.S. Postal Service Mailbox on the 16th day of May, 2022, addressed as follows to the following individual(s).

☒ **Email**

Emailing the documents on the 16th day of May, 2022, at the email address(es) as follows to the following individual(s).

Petitioner(s)

Iris Martinez
1802 Higdon Ave. #2
Mountain View, CA
[redacted]

Respondent(s)

Jane Xiang
Wei Deng
[redacted]
(LANDLORD ADDRESS REDACTED)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Executed on this 16th day of May, 2022

Signature: [signature]

Print Name: Joann Pham

Address: 298 Escuela Ave, Mountain View, CA 94040

送达证明

我声明我已年满十八岁，并且我已通过以下方式将下列文件的副本送达给受影响的当事人:

听证官书面决定的通知
听证官的书面决定
空白的上诉请求表

☐ **个人服务**

在 20_____年____月____日，，按上述地址或地点，亲自将文件交给以下人员.

☒ **邮件**

于 2022 年 5 月 16 日将这些文件装在一个密封的信封里，并全额支付一等邮资，放入美国邮政服务邮箱，地址如下：给以下个人.

☒ **电子邮件**

在 2022 年 5 月 16 日，将这些文件通过电子邮件发送给以下个人，电子邮件地址如下.

申诉人
Iris Martinez
1802 Higdon Ave. #2
Mountain View, CA
[redacted]

应诉人
Jane Xiang
Wei Deng
[redacted]
(房东地址被删节)

我在加利福尼亚州法律规定的伪证处罚下声明，上述内容是真实和正确的:

于 2022 年 5 月 16 日签定

签名: 

打印姓名: Joann Pham

地址: 298 Escuela Ave, Mountain View, CA 94040