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

**IN RE 511 CENTRALL AVE, APT T,
MOUNTAIN VIEW, CALIFORNIA**

RONDELINE WILLIAMS,

Petitioner,

vs.

SHORELINE VILLAGE APARTMENTS,

Respondents.

CASE NUMBER 21220016

DECISION AFTER HEARING

DATE: SEPTEMBER 8, 2022
TIME: 10:00 AM

I. HEARING

On September 8, 2022 a hearing was held relating to 511 Central Avenue, Apartment T (hereinafter “the Property”), pursuant to the Community Stabilization and Fair Rent Act of the City of Mountain View (2016) (hereinafter “CSFRA”)¹. Appearing at the hearing on behalf of PETITIONER was Ms. Rondeline Williams (hereinafter “Ms. Williams”). RESPONDENTS,

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

1 Agate Bay LLC, the parent company of Shoreline Village Apartments, were represented at the
2 hearing by Mr. Steven Welter, LLC Manager (hereinafter “Mr. Welter” and, together with Ms.
3 Williams, “the Parties”), who was present at the hearing. Present at the hearing, although taking
4 no part in proceedings, was Ms. Joann Phan (hereinafter “Ms. Pham”) from the City of Mountain
5 View (hereinafter “the City”).

6 7 **II. DOCUMENTARY EVIDENCE PRESENTED**

8 In addition to the testimony at the September 8, 2022 hearing, documents from the
9 administrative record have been marked as exhibits and considered in reaching this decision.
10 Additionally, each party had the opportunity to submit documents which it wished to have
11 considered as evidence in support of their respective positions. All documents submitted have
12 been admitted and considered in reaching this decision.

13 14 **A. Hearing Officer’s Exhibits**

15 **Exhibit HO1.** Notice of Submission and Proof of Service to Landlord dated June 15,
16 2022.

17 **Exhibit HO2.** Notice of Acceptance of Petition dated July 15, 2022.

18 **Exhibit HO3.** Follow-Up Information for Petition Requesting Adjustment of Rent
19 dated July 15, 2022.

20 **Exhibit HO4.** Notice of Prehearing Meeting and Hearing Date for Petition dated
21 August 10, 2022.

22 **Exhibit HO5.** Written Order and Summary of Conference Call dated August 24, 2022.

23 24 **B. Petitioners’ Exhibits**

25 Ms. Williams submitted the following documents to be received into evidence in this
26 matter.

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C. Respondents' Exhibits

Respondents did not submit any documentary evidence to be considered at the hearing:

III. PROCEDURAL HISTORY OF THE PETITION

The Petition was submitted to the City on July 15, 2022 and approved as complete on the same day, July 15, 2022. On August 10, 2022 a notice of hearing was issued with a scheduled hearing date set for September 8, 2022 at 10:00 AM. On August 24, 2022 a pre-hearing conference was held via Zoom with the Parties, the Hearing Examiner and Ms. Pham all present on the call and participating therein. The hearing was duly held, via Zoom on September 8, 2022 as scheduled.

IV. TESTIMONY PRESENTED

Ms. Williams presented testimony in support of the Petition. Ms. Williams testified that she moved into the Property on May 1, 2021. At the time Ms. Williams moved in she paid One Thousand Five Hundred and Forty-Five Dollars (\$1,545.00) per month in rent. Ms. Williams paid a security deposit and rent for May 2021 at the time that she moved in. As part of a rent concession negotiated between Ms. Williams and Respondents, Ms. Williams was entitled to receive one month of free rent. The free rent was applied to Ms. Williams' second month as a resident in the Property, June 2021. Ms. Williams continued to pay the rental amount from July 1, 2021.

In April of 2022 Ms. Williams reached out to the property manager, Mr. Jordan Rao, to enquire about moving to a larger apartment. After discussion Ms. Williams decided that the larger apartment was too expensive and asked for a twelve (12) month lease renewal for the Property to commence on May 1, 2022.

Before the requested lease renewal was received by Ms. Williams, she found out that the City of Mountain View's Rent Stabilization Program was convening a community meeting during April 2022 to discuss the calculation of base rent and how it is impacted by rent

1 concessions offered by Landlords. Ms. Williams decided to attend the meeting and discovered
2 that it was unclear whether free rent applied to the second month of a tenancy had an impact
3 upon the actual base rent of the property. Ms. Williams then decided to file this Petition to seek
4 clarification about the base rent. Ms. Williams raised the issue of the second month rent
5 concession impacting the base rent with Mr. Rao via email, but no agreement was reached.

6 During May 2022 Ms. Williams finally received the requested lease renewal with an
7 increased monthly rent of One Thousand Five Hundred and Seventy-Five Dollars (\$1,575.00).
8 The new lease was signed by Ms. Williams during June 2022 and was countersigned by a
9 representative of Respondent on or about June 24, 2022.

10 During the last week of July 2022 Ms. Williams received a notice of rent increase raising
11 the rent from 1,575.00 per month by five percent (5%) to a new monthly total of One Thousand
12 Six Hundred and Fifteen Dollars (\$1,615.00). Upon receiving this rent increase notice Ms.
13 Williams reached out to Ms. Reeta Rao, the Regional Property Manager with CBW Properties
14 for Respondents (hereinafter “Ms. Rao”). Ms. Rao informed Ms. Williams that the lease renewal
15 dated June 24, 2022 had contained an error and they had voided the lease. Ms. Rao then went on
16 to say that there was a new lease renewal that would take effect from September 1, 2022. Ms.
17 Williams believes that the September 1, 2022 date was chosen by Respondents to coincide with
18 the date on which the rent increase permitted under the CSFRA increased from Two-point Nine
19 Percent (2.9%) to Five Percent (5%).

20 Ms. Williams stated that she is willing to tender whatever the correct amount of rent for
21 the Property is, but she is unsure exactly what the proper rental amount under the CSFRA
22 actually is.

23 Mr. Welter testified that everyone involved in this situation is in the same boat as it relates
24 to the confusion and uncertainty about the calculation of the proper rent for the Property under the
25 CSFRA. Mr. Welter testified that the July 24, 2022 lease renewal was calculated with a Two
26 Percent (2%) rent increase over what they believed was the correct previous base rent of \$1,545.00
27 per month. Mr. Welter believes that this is the correct calculation of the rent and that the 2%
28 increase in the renewed lease agreement was proper and in compliance with the CSFRA.

1 Mr. Welter then stated that he was in a situation where he felt as if he simply woke up one
2 morning and, due to the adoption of a new regulation by the Rental Housing Committee
3 (hereinafter “RHC”), suddenly his previously valid lease renewal was no longer in compliance
4 with the CSFRA.

5 In response to this Petition, Mr. Welter has done significant research into the new
6 regulation and he remains unclear whether the regulation should have gone into effect until
7 September 1, 2022. Mr. Welter stated that this was the date that he understood to be the effective
8 date of the new regulation and that it should not be enforced retroactively to impact decisions that
9 took place a long time before the regulation was implemented.

10 11 **V. ISSUE PRESENTED**

- 12 1. What is the correct calculation of the Base Rent for the Property and is a rent refund
13 appropriate under the circumstances?

14 15 **VI. DISCUSSION**

16 The CSFRA permits a tenant to file a petition for a refund of rent paid in excess of the
17 rent permitted (unlawful rent). *CSFRA § 1710(d)*.

18 In any petition the burden of proof falls on a petitioner to show that the relief they are
19 seeking in their petition is supported by the evidence and the petitioner’s burden of proof is the
20 preponderance of the evidence. *CSFRA §1711(h) see also Community Stabilization and Fair
21 Rent Act Regulations (hereinafter “The Regulations”) § 5(G)(2)*.

22 In this case the burden of proof to show that the rent actually charged and retained by
23 Respondents was unlawful resides with Ms. Williams.

24 Further, the CSFRA defines the base rent as the “reference point” from which any
25 calculations of rent increases or the like is calculated. For Tenancies commencing after October
26 15, 2015, the base rent is equal to the rental rate charged upon initial occupancy and shall only
27 include the amount *actually paid* by the Tenant. *CSFRA § 1702(b)(2) (emphasis added)*.

1 Because the phrase “actually paid” used by the CSFRA is open to a wide range of
2 interpretations the RHC adopted a new regulation to assist with the interpretation of this
3 provision. The RHC enacted changes to the Regulations to clarify the ability of Landlord to
4 offer rent concessions and how such actions impact the calculation of the base rent. *Regulation*
5 *§2(b)(2)(i)*. Further the Regulations specify that an offer of the first month of free rent to a
6 prospective tenant shall be excluded from the calculation of the base rent. *Regulation §*
7 *2(b)(2)(ii)*.

8 In this case, therefore, the Regulations serve to guide the way the terms of the CSFRA
9 should be interpreted and serve as a kind of instruction manual for the actual language of the
10 CSFRA.

11 Ms. Williams, therefore, must introduce evidence to show Respondents have demanded
12 rent in excess of that actually permitted by the terms of the CSFRA in order to prevail.

13 The evidence presented in this matter is clear. Ms. Williams paid rent for May 2021
14 when she moved into the property, along with a security deposit for the Property. *Recording of*
15 *Proceedings (hereinafter “RP”) 14:13 see also Exhibit P19*. The evidence is also clear that Ms.
16 Williams received a rent concession for the month of June 2021 and paid no rent for that month.
17 *RP 5:00 see also Exhibit P19*. Ms. Williams then began paying regular monthly rent from July
18 1, 2021 for the duration of the initial lease term. *RP 5:07 see also Exhibit P19*. These facts were
19 not disputed by Respondents.

20 Based on these facts, it is clear that the exception contained in Regulation § 2(b)(2)(ii)
21 does not apply in this case as the rental concession was in fact applied to the second month of
22 Ms. Williams’ tenancy, not the first month. The terms of Regulation § 2(b)(2)(i) are therefore
23 controlling in this case. The actual base rent for the property is the total rent actually paid by
24 Ms. Williams over the course of the lease term (\$16,995.00) divided by the length of the lease
25 term (12 months), making the correct base rent for the property One Thousand Four Hundred and
26 Sixteen Dollars and Twenty-Five Cents (\$1,416.25).

27 Absent any valid rent increases this is therefore the amount of rent that should have been
28 paid by Ms. Williams effective May 1, 2022. There are no facts that indicate an obvious lack of

1 good faith by either Petitioner or Respondents in the record; It appears that both Parties were
2 acting in good faith based on their understanding of the applicable provisions of the CSFRA.

3 Mr. Welter’s argument about the retroactivity of the changes to Regulation § 2 are moot.
4 It is the provision of the CSFRA that controls this decision and provides notice to residents and
5 landlords within the City and the Regulations only provide guidance and direction from the RHC
6 about how that provision is to be interpreted. To the extent that Ms. Welter, and Respondents in
7 general, seek a change to the terms of the CSFRA that remedy is beyond the jurisdiction of this
8 matter.

9 The record is clear that the rent increases that Respondents attempted to impose after
10 May 1, 2022 were based on an incorrect calculation of the base rent and are therefore invalid
11 under the CSFRA. Exhibit P17 & P21.

12 Petitioner has therefore met her burden of proof as it relates to the base rent of the
13 property. Any future rental increases for the Property must be calculated from this base rent.
14 Respondents must therefore issue a rent credit, or a refund check – at Respondents’ sole and
15 complete discretion – for the difference between the rent actually paid by Ms. Williams to
16 Respondents from May 1, 2022 to the date of this decision. The record does not contain
17 sufficient information to calculate exactly what the amount of overpaid rent to date is. The
18 Parties shall therefore calculate the actual amount of rent refund due to Ms. Williams and shall
19 issue a refund of that amount to Ms. Williams.

20 As such, Petitioner has met her burden to show that there has been rent retained in excess
21 of the legal rent for the Property pursuant to the CSFRA. This Petition must therefore be
22 GRANTED. The Base Rent for the property is correctly calculated as One Thousand Four
23 Hundred and Sixteen Dollars and Twenty-Five Cents (\$1,416.25) per month.

24 Respondents therefore must issue Ms. Williams a refund check or rent credit equal to the
25 amount greater than \$1,416.25 that has been paid by Ms. Williams since May 1, 2022, at
26 Respondent’s full and sole discretion.

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Nothing in this decision should be interpreted as changing Respondents' right under the CSFRA to impose a future rent increase based on the correct base rent above in the future, should they choose to do so.

VII. DECISION

1. Petitioner's request for a rent refund based on Respondents demand and retention of rent in excess of that permitted by the CSFRA is GRANTED.

2. The Parties shall calculate the exact amount demanded and retained by Respondents and an appropriate refund or rent credit shall be issued to Ms. Williams within thirty (30) days of the date of this decision.

DATED: October 6, 2022



DEREK W. CHANTLER
Hearing Officer