



Rent Stabilization Program

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

Mountainview.gov/rentstabilization

NOTICE OF RENTAL HOUSING COMMITTEE ISSUANCE OF TENTATIVE DECISION OF PETITION REQUESTING ADJUSTMENT OF RENT AS DEFINED BY THE COMMUNITY STABILIZATION AND FAIR RENT ACT (CSFRA)

Date:

To: Affected Parties and Representatives

Re: **Notice of Rental Housing Committee Tentative Decision**

Property Address: 1802 Higdon Ave #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 Unlawful Rent for Failure to Maintain a Habitable Premises* was held on *April 20, 2022*. The Hearing Record was closed at the conclusion of the Hearing on *April 20, 2022*. The Hearing Officer's Written Decision was served on all parties on *May 16, 2022*. A timely Request for Appeal was submitted by Respondent-Appellant on *May 25, 2022*. Please find enclosed a copy of the Rental Housing Committee's Tentative Decision concerning said Request for Appeal.

Pursuant to Rental Housing Committee Regulations, Chapter 5, Section H.3.c., the parties may respond to the tentative decision, but must do so **at least five (5) calendar days prior to the Appeal Hearing date** by emailing their submission to joann.pham@mountainview.gov. Any party submitting a response to the tentative decision must simultaneously serve their response on all other parties by email and mail, if available.

Please note, should you have any questions, you may contact Ms. Pham at (650) 903-6132 or joann.pham@mountainview.gov as I am out of the office through July 25, 2022.

Sincerely,

Patricia L. Black

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

Attachments included:

Rental Housing Committee Tentative Decision

Appeal Hearings Information Sheet

Proof of Service



Rent Stabilization Program

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租赁住房委员会发布暂定决定的通知 关于要求调整租金的请愿书的通知 社区稳定和公平租金法案 (CSFRA) 所定义的租金调整申请的暂定决定

Date: _____

To: **受影响的缔约方和代表**

Re: **租赁住房委员会暂定决定的通知**

Property Address: **1802 Higdon Ave #2**

Petition Number: _____

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

关于上述租户请愿书B因未保持适宜居住的房屋而非法收取租金的听证会已于2022年4月20日举行。听证会记录在2022年4月20日的听证会结束时被关闭。听证官的书面决定已于2022年5月16日送达所有各方。被告-上诉人于2022年5月25日及时提交了上诉请求。随函附上出租屋委员会关于上述上诉请求的暂定决定。

根据《租赁住房委员会条例》第5章第H.3.c.节的规定，各方可以对暂定决定作出回应，但必须在上诉听证会召开前至少5个日历日通过电子邮件将其提交的材料发送至 joann.pham@mountainview.gov。任何一方提交对暂定决定的回应，必须同时通过电子邮件和邮件（如果有的话）将其回应送达所有其他各方。

请注意，如果你有任何问题，你可以通过（650）903-6132或joann.pham@mountainview.gov 联系范女士，因为我在2022年7月25日之前不在办公室。

真诚的,

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。

租赁住房委员会暂定决定

上诉听证会信息表

服务证明

Tentative Appeal Decision
Petition 21220008

Rental Housing Committee
Tentative Appeal Decision

Petition 21220008

The Rental Housing Committee of the City of Mountain View (the "**RHC**") finds and concludes the following:

I. Summary of Proceedings

On March 3, 2022 Tenant Iris Martinez ("**Petitioner**") filed a petition for a downward adjustment of rent for failure to maintain habitable premises or a decrease in housing services or maintenance (the "**Petition**") (Petitioner's Exhibit #1) related to the property located at 1802 Higdon Avenue, #2, Mountain View ("**Property**"). The Property is owned by Hong "Jane" Xiang and Wei Deng ("**Respondent**"). Respondent submitted responses to the Petition in the form of three emails, two on March 7, 2022 and one on March 21, 2022 (Respondent's Exhibits 1-3) "**Petition**").

The Petition requests a rent reduction related to habitability and repair issues including mold in the bathroom, floor support issues in the bathroom, a leaking toilet, a cracked ceiling and openings/peelings in the kitchen wall. In addition, the Petition alleged that the Respondent had refused to allow Petitioner to replace her roommate.

The Hearing Officer ordered an inspection of the Property by the City of Mountain View Fire and Environmental Protection Division. The inspection took place on March 15, 2022 with the Hearing Officer in attendance. An inspection report was produced on March 15, 2022. (Hearing Officer Exhibit #1). The inspection report covered all units in the building and found, in addition to other violations, that the bathroom floor in Unit 2 required "repair 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."

A pre-hearing telephonic conference was held on April 7, 2022. After the pre-hearing conference, the Hearing Officer made a written request to the Petitioner for additional documents and requested that if the Respondent intended to submit additional documents, such documents should be submitted by April 12, 2022. A Notice of the Hearing Officer's Pre-hearing Requests and a Notice of the Hearing were served on the Petitioner and the Respondent on April 8, 2022. (Hearing Officer Exhibits #2 and 3).

The hearing was held on April 20, 2022. Both Mandarin and Spanish translators were in attendance. The hearing record was closed on April 20, 2022. The Hearing Officer issued a decision on May 11, 2022. The decision was translated into Mandarin at the request of the Respondent. The Hearing Officer's Decision was served on the parties on May 16, 2022

A timely appeal of the Decision was received from the Respondent on May 25, 2022.

Tentative Appeal Decision
Petition 21220008

Procedural Posture

CSFRA section 1711(j) states in part that "[a]ny person aggrieved by the decision of the Hearing Officer may appeal to the full Committee for review." Regulation Chapter 5 section H(5)(a) provides that the RHC "shall affirm, reverse, or modify the Decision of the Hearing Officer, or remand the matters raised in the Appeal to a Hearing Officer for further findings of fact and a revised Decision" as applicable to each appealed element of the decision.

II. Summary of Hearing Officer Decision.

The Hearing Officer issued a detailed decision on the Petition summarizing the evidence and making findings of fact and conclusions of law.

The Hearing Officer found the following:

1. The Petitioner was entitled to a downward adjustment of rent due to the unsafe condition of the bathroom floor. The condition violates the California Building Code, the warranty of habitability and California Health and Safety Codes and thus falls under Section 1710(b)(1) of the CSFRA that allows for a downward adjustment of rent for failure to maintain a rental unit in compliance with governing health and safety and building codes.

2. Petitioner is entitled to a downward adjustment of rent due to water damage at the ceiling in the bedroom and living room because it violates the California Building Code and thus falls within CSFRA Section 1710(b)(1) allowing for downward adjustments of rent for failure to maintain the rental unit in compliance with governing health and safety and building codes.

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 Section 1710(c) of the CSFRA which allows for downward adjustments of rent for a decrease in housing services, maintenance or deterioration of a rental unit.

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 bedroom.

5. Petitioner did not meet her burden of proof in order to obtain a downward adjustment of rent as to allegations of the carpet needing a replacement.

6. The Hearing Officer found that the Petitioner had not complied with the requirements of the CSFRA Regulations Chapter 9, Section E regarding notice required to request a replacement roommate so the Petitioner was not entitled to any downward adjustment related to subletting. The Hearing Officer found that should the Petitioner wish to replace her roommate or sublet to a roommate in the future, she must comply with those requirements and Respondent must comply with the CSFRA and California Law.

7. The Hearing Officer determined the amount of the downward adjustment based on the percentage reduction in use of the rental unit. The Hearing Officer divided the total rent for the

Tentative Appeal Decision
Petition 21220008

Rental Unit by the number of rooms in the Rental Unit to determine the percentage value of each room. Using this methodology, the Hearing Officer determined that each room had a rental value of \$291.40 per month (monthly rent of \$1457 divided by 5 rooms = \$291.40). Based on the severity of the habitability issues in the bathroom regarding the substandard floor support the Hearing Officer determined that the bathroom had no value so a reduction of \$291.40 was in order. The Hearing Officer did not grant an additional reduction in rent related to the toilet but rather found that if the toilet was not replaced as part of the bathroom repairs, the Petitioner was entitled to a one time rent reduction of \$650.00 to cover the cost and installation of a new toilet.

The Hearing Officer found that the condition of the ceiling in the living room and the bedroom did not make those rooms unusable but that there as a reasonable worry that the ceiling would cave in. To compensate for that risk, the Hearing Office awarded the Petitioner a downward adjustment equal to 5% of the value of each of those rooms. Based on the earlier percentage calculation of the value of each room being \$291.40, the 5% reduction in value for the living room and bedroom results in a reduction of rent of \$29.10 per month. When added to the downward reduction in rent for the bathroom, the monthly reduction of rent totals \$320.50.

The Hearing Officer also determined the timeframe for the downward reduction in rent. The Hearing Officer determined that the Respondents had notice of the bathroom and ceiling issues beginning in December 2021. The CSFRA requires that the landlord must have notice and an opportunity to correct the conditions. The Hearing Officer found that three months was a reasonable amount of time to make substantial progress on correcting the conditions. Since no progress had been made on making any the repairs, the Hearing Officer found that the downward adjustment commenced on March 1, 202 and would continue until the City building inspector signed off on the repairs in the bathroom and the living room and bedroom ceilings.

III. Appealed Elements of Hearing Officer Decision

Regulation Chapter 5 section H(1)(a) states that "[t]he appealing party must state each claim that he or she is appealing, and the legal basis for such claim, on the Appeal request form." Section III of this Appeal Decision identifies the elements of the Decision that are subject to appeal by the Respondent. The Appeal Decision regarding each appealed element is provided in Section IV of this Appeal Decision.

The Respondent raises three issues in the Appeal.

A. Respondent Appeal Elements

1. Rent Cut of \$320.50 starting from March is not reasonable.

Respondents argues that they were not officially notified that the bathroom may contain mold until February 8, 2022 and that they were not given an opportunity to correct the problem because the Petitioner refused to allow them access to the unit after the City inspection was scheduled. Respondent states that they believed that they were waiting for the Hearing Officer decision before they could begin the repair work so the downward adjustment of rent should not

Tentative Appeal Decision
Petition 21220008

start until three months after the receipt of the decision, assuming that it will take three months to complete the repairs.

2. Subleasing should not have been talked about in the petition.

Respondent argues that subleasing has nothing to do with the habitable conditions of the Property. The Respondent further argues that the lease that Petitioner entered into with the prior owner of the Property as well as an estoppel certificate signed by the Petitioner prior to the buildings sale to the Respondent should have been considered with regards to the subleasing issues. Respondent further argues that the provision of Section 1705(a)(2)(A) of the CSFRA cited by the Hearing Officer are inapplicable to the subleasing issue since those provisions relate to just cause for eviction. Respondent also argues that the lease agreement allows the Respondent to increase the rent in the event additional occupants are added to the unit and proposes to increase the rent by \$1,400 per month if the Petitioner wants a roommate.

3. The City has not been fair or neutral. The Respondent argues that the City has not been fair and neutral, claiming that the discussion of subleasing was off topic, that the Hearing Officer should not have allowed Petitioner's witness to testify, that the Hearing Officer asked questions about the Respondents intent to convert the garage into an ADU and that the Respondents words were distorted.

IV. Decision Regarding Appealed Elements

A. Respondent's Claim that Rent Cut starting in March is not reasonable.

Respondents claim that the downward adjustment start date of March 1, 2022 is unreasonable because Respondent only had notice of the mold issues in the bathroom floor on February 8, 2022. Respondent states that they were waiting for the Hearing Officer's Decision before taking steps to repair the bathroom floor issues. Based on the Hearing Officer's determination that a reasonable period of time to complete the repairs is three months, the Respondent requests that the downward adjustment for the bathroom not commence until August, three months after the decision.

Respondent also argues that the ceiling issues in the living room were caused the Petitioner and could not have been caused by water leaks from the upstairs apartment since the living room and the bedroom are not near the water sources.

Respondents' arguments on the timing of the downward adjustment appear to be primarily based on Respondents' contention that they were not informed of the problems with the floor until February 8, 2022 and that Respondents should have three months from the date of the Hearing Officer's decision to fix the problem before the downward adjustment is effective.

The record as well as the parties' testimony, including Respondent's testimony, evidence that the Respondents had notice of the fact that the bathroom floor was "squishy" as early as December 7, 2021 when Respondent came over to address mold issues in the bathroom. Respondent testified that they thought the problem was cosmetic and that they did not know what squishy meant.

Tentative Appeal Decision
Petition 21220008

Respondents also testified that they asked their contractor about the floor issue and the contractor said that the floor would have to be opened up to identify the problem. Respondents testified that they were not willing to open the floor to identify the problem. Respondents also testified that they had inspected the Property before purchasing the building. Respondent also testified that prior to acquiring the building in November 2021 they obtained an inspection of the building but Respondent did not produce the inspection report as evidence.

Petitioner testified that she notified the Respondents of the "squishy" floor when she first met with Respondents in November, 2021. Petitioner also provided testimony from a licensed contractor who had inspected the bathroom and testified that the floor exhibited serious water damage and that it feels like "you're walking on a trampoline" when walking on the bathroom floor.

Respondent also testified that in November when she first met Petitioner, they discussed the ceiling and Respondent, Ms. Xiang, stated that the popcorn ceiling could be dangerous.

The evidence provided by both Respondents and Petitioner support the Hearing Officer's determination that the Respondents had notice of the sub-floor condition in the bathroom at least as early as December, if not earlier. Respondents did not make any efforts to address the issue and in fact testified that they either thought the problem was cosmetic or that they were not willing to remove the floor in order to determine what was causing the problem.

Respondents also testified that they had notice of the ceiling condition as early as November. The ceiling cracks are clearly visible and would have been visible on an inspection of the premises. Respondents testified that they believed the ceiling cracks were caused by the Petitioner when she tried to remove the popcorn ceiling. However, the Petitioner only tried to remove the popcorn ceiling in the living room and the ceiling cracks are in both the living room and the bedroom.

The evidence in the record supports the Hearing Officer's determination that the downward adjustments are effective as of March 1, 2022.

B. Should Subleasing have been discussed in the Petition

Respondent argues that the discussion of subleasing in the Decision is off topic and should not have been allowed. Respondent also argues that the lease Petitioner signed with the prior Property owner states that only Petitioner occupies the Property and that any change in occupancy requires the Landlord's written consent and may be subject to an adjustment of rent. Respondent further argues that Section 1705(a)(2)(A) of the CSFRA is inapplicable to the Petitioner's request for a new roommate since that provision deals with evictions and Respondent is not terminating Petitioner's tenancy. Respondent further argues that the Estoppel Certificate signed by the Petitioner before Respondent acquired the building, although not directly addressing subleasing, estops Petitioner from claiming that she previously had a roommate.

Respondent also states that they have never allowed Petitioner to sublet and have told Petitioner numerous times that she would have to sign a new lease if a new roommate was allowed and that

Tentative Appeal Decision
Petition 21220008

could subject Petitioner to a rent increase. In Respondent's appeal, Respondent proposes a rent increase of \$1,400 for a new roommate, which would nearly double Petitioner's rent.

The Hearing Officer did not award the Petitioner a downward adjustment of rent for Respondents failure to allow Petitioner to replace her roommate, but the Hearing Officer did discuss the provisions of State law and the CSFRA regarding subletting and replacement roommates. The Hearing Officer, in the conclusions of law found that the Petitioner needs to comply with the requirements of CSFRA Regulations Chapter 9, Section 5 if she wants to add a roommate and that the Respondent must comply with the CSFRA as well as California law.

Respondent's claim that the discussion of subletting is improper is not supported by the evidence. The Petition clearly raised the issue of subletting in the attachments to the Petition (See Petitioner's Exhibit #3). Additionally, the Respondents were put on notice that the subletting issue would be the topic of the hearing in the Hearing Officer's Requests Pursuant to RHC Regulations Chapter 5(C)(4) (Hearing Officer Exhibit #2) which requested additional evidence from the Petitioner regarding her roommates.

Although the Hearing Officer did not award a downward adjustment of rent as a result of the Respondent's failure to allow Petitioner to replace her roommate, the Hearing Officer did offer her observations as guidance regarding the subleasing issue, explaining the applicable provisions of the CSFRA, the RHC Regulations and State law regarding subleasing and replacement of roommates. This discussion should be treated as dicta, meaning it is not necessary to resolve the case but is rather a statement of the Hearing Officer's understanding of the law. Since the Hearing Officer's Decision does not find a downward adjustment related to subletting or the replacement of a roommate, the Respondent's appeal related to subletting does not address an appealable issue in the decision and is dismissed.

C. The City Officers have not been fair and neutral.

Respondent argues that City has not been fair and neutral to the Respondents and in support states that the discussion of subleasing was off topic, that the testimony of Petitioner's roommate should not have been allowed since the witness was not on the witness list, and that the Hearing Officer asked about the Respondent's intention to convert the garage to an ADU. Respondent also claims that their words were distorted citing to various sections of the Decision that summarized Respondent's testimony. Finally, Respondent also requested that they be provided with keys for the bedroom doors of the Property, that an unpermitted installation of the electrical outlet in the Property be checked, that the record reflect that the Petitioner removed the kitchen cabinet doors and should be not allowed to ask for them to be reinstalled and that they be allowed to give a 24-hour notice of repairs.

As discussed above under subsection B, the discussion of subletting was appropriate since the Petitioner raised the issue in her petition, it was discussed in the prehearing conference and the Respondents had notice that the issue would be part of the hearing prior to the hearing. Respondents also makes several claims that their testimony was distorted in the Decision. After review of the hearing tape, the Hearing Officer's description of the testimony was accurate and

Tentative Appeal Decision
Petition 21220008

fairly reported in the decision. The hearing procedures were conducted in accordance with the CSFRA and the RHC Regulations and both parties were given ample opportunity to present evidence and cross exam the witnesses. A complete review of the hearing record does not show any evidence of bias.

The Respondents requested that the Decision address issues that were not raised in the Petition, including that the Respondents be given keys to the bedroom doors, that an electrical outlet installed by the Petitioner's former roommate be checked and potentially removed, that the Hearing Decision reflect that Petitioner removed the kitchen cabinet doors and that they be allowed to give Petitioner a 24-hour notice before conducting repairs.

None of the above issues were the subject of the Petition, and thus were not addressed by the Hearing Officer.

V. Conclusion

As detailed above, the RHC denies the appeal in its entirety and affirms the Decision in its entirety:

1. The Petitioner is entitled to a downward adjustment in rent related to the condition of the bathroom of \$291.40 per month commencing on March 1, 2022, and continuing until a City building inspector signs off on the bathroom repairs.
2. The Petitioner is entitled to a downward adjustment in rent related to the ceiling condition in the living room and bedroom in the amount of \$29.10 per month commencing March 1, 2022 and continuing until a City building inspector signs off on the ceiling repair.
3. If the toilet is not replaced as part of the bathroom repair, the Petitioner is entitled to a one-time downward adjustment of \$650.00 for the cost of a new toilet.

Tentative Appeal Decision
Petition 21220008

租赁住房委员会

暂定的上诉决定

申请书 21220008

山景城租赁住房委员会 ("RHC") 发现并得出以下结论。

I. 诉讼摘要

2022 年 3 月 3 日, 租户 Iris Martinez ("申请人") 提交了一份申请书("申请书"), 要求下调位于山景城 Higdon 大道 1802 号 2 号 (1802 Higdon Avenue, #2, Mountain View) 的房产 ("房产") 的租金, 原因是该房产未能维持可居住的房屋或减少了住房服务或维修(申请人的证据 1)。该物业的业主是 Hong "Jane" Xiang 和 Wei Deng ("应诉人")。应诉人以三封电子邮件的形式提交了对申请书的答复, 两封是在 2022 年 3 月 7 日, 一封是在 2022 年 3 月 21 日 (应诉人的证据 1-3) "申请书")。

申请书要求降低租金, 这与可居住性和维修问题有关, 包括浴室发霉、浴室地板支撑问题、马桶漏水、天花板开裂和厨房墙壁上的开口/剥落。此外, 申请书称, 被申请人拒绝让申请人替换她的室友。

听证官下令由山景城消防和环保部门对该物业进行检查。该检查于 2022 年 3 月 15 日进行, 听证官出席了检查。2022 年 3 月 15 日产生了一份检查报告。(听证官证据 1)。该检查报告涵盖了大楼的所有单元, 除了其他违规行为外, 还发现 2 单元的浴室地板需要 "修理, 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、洗手台和马桶, 以更换受损的底层地板"。

2022 年 4 月 7 日, 举行了听证前电话会议。听证会前会议结束后, 听证官向申请人提出书面要求, 要求提供补充文件, 并要求如果应诉人打算提交补充文件, 应在 2022 年 4 月 12 日前提交。听证官的听证前要求通知书和听证会通知书已于 2022 年 4 月 8 日送达申请人和应诉人。(听证官证据 2 号和 3 号)。

听证会于 2022 年 4 月 20 日举行。普通话和西班牙语的翻译都出席了会议。听证会记录于 2022 年 4 月 20 日结束。听证官于 2022 年 5 月 11 日发布决定。根据应诉人的要求, 该决定被翻译成普通话。听证官的决定于 2022 年 5 月 16 日送达给双方当事人。

2022 年 5 月 25 日, 收到应诉人对该决定的及时上诉。

审讯程序

CSFRA 第 1711(j)条部分规定, "任何对听证官的决定感到不满的人可以向全体委员会提出上诉, 要求审查"。条例第 5 章 H(5)(a)节规定, RHC "应确认、推翻或修改听证官的决

Tentative Appeal Decision
Petition 21220008

定，或将上诉中提出的事项发回给听证官，以进一步查明事实和修订决定”，这适用于决定中的每个上诉内容。

II. 听证官的决定摘要.

听证官对申请书做出了详细的决定，总结了证据，并对事实和法律结论做出了认定。

听证会官员认定如下：

1. 由于浴室地板的不安全状况，申请人有权要求下调租金。这种状况违反了《加州建筑法规》、适宜居住的保证和《加州健康和安全法》，因此属于 CSFRA 第 1710(b)(1)条的规定，即允许对未能按照健康和安全以及建筑法维护出租单元的情况下，向下调整租金。

2. 申请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《加州建筑法规》，因此属于 CSFRA 第 1710(b)(1)条允许下调租金的范围，因为没有按照卫生和安全以及建筑法规维护出租单元。

3. 根据 CSFRA 第 1710(c)条的规定，申请人有权下调租金，因为他们没有对厕所进行适当的维护，这构成了维护的减少，CSFRA 允许在住房服务减少、维护或出租单元恶化的情况下下调租金。

4. 申请人没有履行她的举证责任，以获得对卧室发霉的指控进行下调租金。

5. 申请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. 听证官认为，申请人没有遵守 CSFRA 条例第 9 章 E 节关于要求更换室友的通知要求，因此申请人无权获得任何与分租有关的下调。听证官认为，如果申请人今后希望更换室友或转租给室友，她必须遵守这些要求，而应诉人必须遵守 CSFRA 和加州法律。

7. 听证官根据出租单元使用的减少百分比来确定下调的数额。听证官将出租单元的总租金除以出租单元的房间数，以确定每个房间的百分比价值。采用这种方法，听证官确定每个房间的租金价值为每月 291.40 美元（月租金 1457 美元除以 5 个房间 = 291.40 美元）。根据浴室内不符合标准的地板支撑的可居住性问题的严重性，听证官确定该浴室没有价值，所以减少 291.40 美元是合乎规定的。听证官没有批准额外减少与马桶有关的租金，而是认为如果不把马桶作为浴室维修的一部分来更换，申请人有权一次性减少 650 美元的租金，以支付新马桶的费用和安装。

Tentative Appeal Decision
Petition 21220008

听证官认为，客厅和卧室的天花板状况并没有使这些房间无法使用，但有理由担心天花板会塌陷。为了补偿这一风险，听证会办公室给予申请人一个向下的调整，相当于每个房间价值的 5%。根据先前对每个房间价值 291.40 美元的百分比计算，客厅和卧室的价值减少 5%，导致每月租金减少 29.10 美元。如果再加上卫生间租金的下调，每月减少的租金总额为 320.50 美元。

听证官还确定了下调租金的时间框架。听证官确定，从 2021 年 12 月开始，应诉人已经注意到浴室和天花板的问题。CSFRA 规定，房东必须有通知并有机会纠正这些状况。听证官认为，三个月是一个合理的时间，可以在纠正这些条件方面取得实质性进展。由于在维修方面没有取得任何进展，听证官认为下调的时间从 2022 年 3 月 1 日开始，并将持续到市建筑检查员对浴室、客厅和卧室天花板的维修进行签字。

I. 对听证官决定的上诉内容

条例第 5 章 H(1)(a)节规定，“上诉方必须在上诉申请表上说明他或她要上诉的每一项要求，以及该要求的法律依据。”本上诉决定的第三部分确定了应诉人对该决定提出上诉的内容。本上诉决定第四部分提供了关于每个上诉内容的上诉决定。

应诉人在上诉中提出了三个问题。

A. 应诉人上诉内容

1. 从 3 月份开始，租金削减 320.5 美元是不合理的。

被告认为，他们直到 2022 年 2 月 8 日才被正式通知浴室可能含有霉菌，而且他们没有机会纠正这个问题，因为申请人在安排市政府检查后拒绝让他们进入该单元。应诉人表示，他们认为他们是在等待听证官的决定，然后才能开始维修工作，所以租金的下调应该在收到决定后三个月才开始，假设需要三个月才能完成维修。

2. 转租不应该在申请书中谈及。

应诉人认为，转租与该物业的可居住条件没有关系。应诉人进一步辩称，申请人与该物业先前的业主签订的租约以及申请人在该物业出售给应诉人之前签署的禁止反言证书，都应该被考虑到转租问题。应诉人进一步辩称，听证官引用的 CSFRA 第 1705(a)(2)(A)条的规定不适用于转租问题，因为这些规定涉及到驱逐的正当理由。应诉人还辩称，租赁协议允许应诉人在该单元增加住户的情况下提高租金，并建议如果申请人想要一个室友，每月增加 1400 美元的租金。

Tentative Appeal Decision
Petition 21220008

3. **市府没有做到公平或中立。** 应诉人认为市府没有做到公平和中立，声称关于转租的讨论偏离了主题，听证官不应该允许申请人的证人作证，听证官询问了关于应诉人将车库改为 ADU 的意图，以及应诉人的话被扭曲。

II. 关于上诉内容的决定

A. 应诉人声称从 3 月份开始减租是不合理的。

应诉人称，2022 年 3 月 1 日的下调起始日期是不合理的，因为应诉人在 2022 年 2 月 8 日才注意到浴室地板的霉菌问题。应诉人称，他们是在等待听证官的决定，然后才采取措施修复浴室地板的问题。基于听证官认为完成维修的合理时间是三个月，应诉人要求在 8 月，即裁决后三个月才开始对浴室进行下调。

应诉人还认为，客厅的天花板问题是申请人造成的，不可能是楼上公寓的漏水造成的，因为客厅和卧室不在水源附近。

应诉人关于下调时间的争论似乎主要是基于应诉人认为他们直到 2022 年 2 月 8 日才被告知地板存在的问题，以及应诉人应该从听证官的决定之日起有三个月的时间来解决这个问题，然后下调生效。

记录以及双方的证词，包括应诉人的证词，都证明应诉人早在 2021 年 12 月 7 日应诉人过来处理卫生间的霉菌问题时，就已经注意到卫生间的地板是“软的”这一事实。应诉人作证说，他们认为这个问题是外观上的，他们不知道“软”是什么意思。

应诉人还作证说，他们向承包商询问了地板的问题，承包商说必须打开地板才能确定问题所在。应诉人作证说，他们不愿意打开地板以查明问题。应诉人还作证说，他们在购买该建筑之前已经检查了该物业。应诉人还作证说，在 2021 年 11 月购买该建筑之前，他们获得了对该建筑的检查，但应诉人没有拿出检查报告作为证据。

申请人作证说，她在 2021 年 11 月第一次与应诉人见面时，就通知了应诉人地板“很软”的问题。申请人还提供了一名有执照的承包商的证词，该承包商检查了浴室，并证明地板表现出严重的水渍，在浴室地板上行走时，感觉就像“你在蹦床上行走”。

应诉人还作证说，在 11 月她第一次见到申请人时，他们讨论了天花板的问题，应诉人向女士说，爆米花天花板可能有危险。

Tentative Appeal Decision
Petition 21220008

应诉人和申请人提供的证据支持听证官的判断，即应诉人至少早在 12 月就注意到了浴室的底层地板状况，如果不是更早的话。 应诉人没有做出任何努力来解决这个问题，事实上，他们作证说，他们要么认为这个问题是外观上的，要么他们不愿意拆除地板，以确定是什么原因造成的。

应诉人还作证说，他们早在 11 月就注意到了天花板的状况。天花板的裂缝清晰可见，在对房屋进行检查时也会看到。 应诉人作证说，他们认为天花板的裂缝是由申请人试图拆除爆米花天花板时造成的。 然而，申请人只试图拆除客厅的爆米花天花板，而天花板的裂缝在客厅和卧室都有。

记录中的证据支持听证官的决定，即向下调整从 2022 年 3 月 1 日起生效。

B. 转租是否应该在申请书中讨论

应诉人认为，《决定》中关于转租的讨论是偏离主题的，不应允许。 应诉人还认为，申请人与先前的物业业主签署的租约中规定，只有申请人占用该物业，任何占用的改变都需要业主的书面同意，并可能会对租金进行调整。 应诉人进一步辩称，CSFRA 第 1705(a)(2)(A) 条不适用于申请人的新室友要求，因为该条款涉及驱逐问题，而应诉人并没有终止申请人的租约。 应诉人进一步辩称，申请人在应诉人收购大楼前签署的禁止反言证书，虽然没有直接涉及转租问题，但阻止了申请人声称她以前有一个室友。

应诉人还表示，他们从未允许申请人转租，并多次告诉申请人，如果允许新的室友，她必须签署一份新的租约，这可能会使申请人的租金上涨。 在应诉人的上诉中，应诉人提议为新室友加租 1,400 美元，这将使申请人的租金几乎翻倍。

听证官没有因为应诉人不允许申请人更换室友而判决申请人下调租金，但听证官确实讨论了州法律和 CSFRA 关于转租和更换室友的规定。 听证官在法律结论中认为，如果申请人想增加一个室友，她需要遵守 CSFRA 条例第 9 章第 5 节的要求，应诉人必须遵守 CSFRA 以及加州法律。

应诉人声称对转租的讨论是不恰当的，这没有证据支持。 申请书在申请书的附件中明确提出了分租的问题（见申请人的第 3 号证据）。 此外，在听证官根据 RHC 条例第 5(C)(4) 章提出的要求（听证官证据#2）中，应诉人被告知分租问题将是听证会的主题，该要求要求申请人提供有关其室友的额外证据。

虽然听证官没有因为应诉人不允许申请人更换室友而裁定下调租金，但听证官确实就转租问题提出了她的意见作为指导，解释了 CSFRA、RHC 条例和州法律中关于转租和更换室友的适用条款。 这一讨论应被看作是意见陈述，意思是它对解决本案没有必要，只是陈述了听证官对法律的理解。 由于听证官的决定没有发现与转租或更换室友有关的下调，应诉人与转租有关的上诉不涉及决定中的可上诉问题，因此予以驳回。

Tentative Appeal Decision
Petition 21220008

C. 市政府官员没有做到公平和中立.

应诉人认为，市政府对应诉人没有做到公平和中立，并在支持中指出，关于转租的讨论偏离了主题，不应允许申请人室友的证词，因为该证人不在证人名单上，而且听证官询问了应诉人将车库改为 ADU 的意图。应诉人还援引《决定》中总结应诉人证词的各个部分，声称他们的话被歪曲了。最后，应诉人还要求向他们提供该物业卧室门的钥匙，检查该物业未经许可安装的电源插座，在记录中反映申请人拆除了厨房柜门，不应允许他们要求重新安装，并允许他们发出 24 小时的维修通知。

如上文 B 分节所述，讨论分租问题是适当的，因为申请人在其申请中提出了这一问题，在听证前会议上也讨论了这一问题，而且应诉人在听证前已通知该问题将成为听证的一部分。应诉人还提出了几项主张，说他们的证词在裁决中被歪曲了。经过对听证会录音的审查，听证官对证词的描述是准确的，并在《决定》中进行了公正的报道。听证程序是按照 CSFRA 和 RHC 条例进行的，双方都有充分的机会提出证据和盘问证人。对听证会记录的全面审查并没有显示出任何偏见的证据。

应诉人要求裁决处理申请书中没有提出的问题，包括给应诉人提供卧室门的钥匙，检查申请人前室友安装的电源插座并可能予以拆除，听证会裁决反映申请人拆除了厨房柜门，并允许他们在进行维修前 24 小时内通知申请人。

上述问题都不是申请书的主题，因此听证官没有处理。

III. 结论

如上所述，RHC 驳回了全部的上诉，并确认了全部的决定。

1. 申请人有权从 2022 年 3 月 1 日开始，根据卫生间的状况，每月下调租金 291.40 美元，并持续到市建筑检查员对卫生间的维修签字为止。

2. 申请人有权就客厅和卧室的天花板状况下调租金，金额为每月 29.10 美元，从 2022 年 3 月 1 日开始，一直持续到市建筑检查员对天花板的维修签字为止。

3. 如果马桶没有作为浴室维修的一部分进行更换，申请人有权获得一次性下调 650.00 美元的新马桶费用。



Rent Stabilization Program

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

CSFRA PETITION FOR ADJUSTMENT OF RENT APPEAL HEARING INFORMATION SHEET

- Deadline to Appeal:** Any Party to a petition may appeal a Petition Hearing Decision by serving a written Request for Appeal on all parties and then filing a copy of the completed form with the City Rental Housing Committee within ten (10) calendar days after the mailing of the Petition Hearing Decision. If no Appeals are filed within ten (10) calendar days, the Petition Hearing Decision is considered final. It is possible for both a Landlord and a Tenant to appeal the same Petition Hearing Decision, in which case the Appeal Hearings may be consolidated.
- Right to Assistance:** Any Party filing an appeal has the right to seek assistance from or be represented by an attorney, legal worker, Recognized Tenant Organization, translator or other designated third party, if they so choose. Any party wishing to have a representative must complete a Representative Authorization Form (which can be obtained at: www.mountainview.gov/rentstabilization/forms) and submit it to the Rental Housing Committee. Rent Stabilization Program staff will provide copies to all parties prior to the Appeal Hearing.
- Public Record:** The appeal process, including the Appeal Hearing, is public. The proceedings and the resulting Decision issued by the Rental Housing Committee are a public record. Therefore, any member of the public may submit a request for copies of the documents submitted by the Parties to the appeal, but personal information is redacted to protect individual's privacy.
- Appeal Hearing Schedule:** Every effort will be made to schedule the Appeal Hearing within thirty (30) days after the date of determination that an Appeal form is complete. Appeal Hearings will be heard at a Rental Housing Committee meeting and can only be held with a quorum of the Rental Housing Committee present, meaning there must be at least three (3) members present. The Appeal Hearing will be rescheduled as necessary to obtain a quorum.

Appeal Process	Deadline or Action
14 Calendar Days before Hearing	Last day for RHC to inform all parties to Appeal of Appeal Hearing Date. <i>CSFRA Regs. §5(H)(2)(b).</i>
10 Calendar Days before Hearing	Last day for RHC to issue Tentative Decision (RHC may choose not to issue Tentative Decision). <i>CSFRA Regs. §5(H)(3)(b).</i>
5 Calendar Days before Hearing	Last day for parties to file supplemental written material in response to Tentative Decision (if applicable). <i>CSFRA Regs. §5(H)(3)(c).</i>
<i>Date of Hearing</i>	Appeal Hearing before RHC

DISCLAIMER: Neither the Rental Housing Committee nor the City of Mountain View make any claims regarding the adequacy, validity, or legality of this information sheet under State or Federal law. This information sheet is not intended to provide legal advice. Please visit mountainview.gov/rentstabilization or call 650-903-6149 for further information.

5. **Standard of Review:** Appeal decisions are based on the Hearing Record, and the Rental Housing Committee is unable to hear or find facts beyond those presented to the Hearing Officer, unless a majority of the Rental Housing Committee determines to reopen the record and allow for a full factual hearing (called a De Novo Hearing). The Rental Housing Committee can only review the claims raised in the Request for Appeal. Any decision of a Hearing Officer that is not addressed in a Request for Appeal becomes final and is not subject to being reopened by the RHC.
6. **De Novo Hearings:** If the Rental Housing Committee determines a De Novo Hearing should be held for the Appeal, the Appeal Hearing will be conducted in the same manner as a Hearing on a Petition for Adjustment of Rent pursuant to CSFRA Regulations Chapter 5, Section E. A De Novo Hearing is when the Hearing process resets for new findings of fact. The parties may submit new evidence, witnesses, and testimony for the Committee to establish the facts of the case, creating a new Hearing Record. The Committee may, but is not required to, consider the previous Hearing Record. The Committee members will act as Hearing Officers during a De Novo Hearing. The issues subject to the de novo review by the Committee may be limited as specified by a majority of Committee members or by the issues raised in the appeal.
7. **Tentative Decision:** The Rental Housing Committee may issue a Tentative Decision at least ten (10) calendar days before the Appeal Hearing. Parties may respond in writing to the Tentative Decision at least five (5) calendar days before the Appeal Hearing by serving a copy of their reply to the Rental Housing Committee's designee using one of the following methods below **and** by serving a copy simultaneously on all other parties by email, if possible, or otherwise by mail.

by mail

Rental Housing Committee
500 Castro Street
Mountain View, CA 94041
to the attention of Patricia Black

OR

by email (preferred method)

patricia.black@mountainview.gov

8. **Appeal Hearing Procedures:** The Appeal Hearing will be conducted and determined pursuant to the CSFRA Regulations Chapter 5, Section H. All Regulations are available on the City's website at www.mountainview.gov/rentstabilization or by request. Although oral presentations and responses are not required, each party to the Appeal will be given the opportunity to present their positions and respond to another party's arguments. Each side is limited to the specific time limits below, regardless of the number of individuals aligned with a party.
 - The parties will have 10 minutes each to present their positions, not including answering any questions posed by members of the Rental Housing Committee. The Appellant will be the first to present their Argument.

- The parties will then have 5 minutes each to orally respond or rebut the arguments offered by the other party to the Appeal, not including answering any questions posed by members of the Rental Housing Committee. The Appellant will be the first to present their Rebuttal.

Appeal(s) of Hearing Officer Decision(s)

- Public Comment Period applicable for all Appeals on the agenda

1st Appeal Hearing	
Staff Report (if applicable)	
Appellant Presentation of Argument	10 minute maximum
Respondent Presentation of Argument	10 minute maximum
Appellant Presentation of Rebuttal	5 minute maximum
Respondent Presentation of Rebuttal	5 minute maximum
RHC Deliberation and Decision	

- Conclude Appeal Hearing

9. **Ruling on Appeal:** The Rental Housing Committee can affirm, reverse, or modify the Petition Hearing Decision, or remand the matters raised in the Appeal to a Hearing Officer for further findings of fact and a revised Decision, if applicable. If the Rental Housing Committee remands all or a portion of an appealed decision to a Hearing Officer, the Hearing Officer must issue and have provide all parties with a written, revised Decision within forty-five (45) calendar days after the Order from the Rental Housing Committee is delivered to the Hearing Officer and all parties.

10. **Appeals:** Remanded Decisions may be appealed to the Rental Housing Committee. Any requests for a Remanded Decision to be appealed to the Rental Housing Committee must be made within ten (10) days of the date the Decision was sent to the parties.

City of Mountain View Rent Stabilization Program

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Virtual Office Hours
 Every Tuesday 10:00 am-12:00 pm or by appointment
mountainview.gov/rspofficehours



租金稳定项目

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

CSFRA 申请调整租金

上诉听证信息表

- 1. 上诉的最后期限:** 申请的任何一方都可以对申请听证会的决定提出上诉，方法是向所有各方送达书面的上诉请求，然后在申请听证会决定邮寄后的十（10）个日历日内向市出租房屋委员会提交一份完整的表格副本。如果在十天内没有提出上诉，申请听证会的决定将被视为最终决定。房东和租户有可能对同一个申请听证会决定提出上诉，在这种情况下，上诉听证会可以合并。
- 2. 获得援助的权利:** 任何提出上诉的一方都有权寻求律师、法律工作者、公认的租户组织、翻译或其他指定的第三方的协助或代表，如果他们选择这样做。任何希望有代表的一方必须填写一份代表授权表（可在以下网址获取：www.mountainview.gov/rentstabilization/forms），并提交给出租屋委员会。租金稳定计划工作人员将在上诉听证会前向所有各方提供副本。
- 3. 公共记录:** 上诉程序，包括上诉听证会，是公开的。程序和租赁住房委员会发布的决定是一个公共记录。因此，任何公众人士都可以要求获得上诉各方提交的文件副本，但个人信息会被编辑，以保护个人隐私。
- 4. 上诉听证会时间表:** 我们将尽一切努力，在确定上诉表格完整的日期后三十（30）天内安排上诉听证会。上诉听证会将在租房委员会的会议上进行，只有在租房委员会的法定人数出席的情况下才能举行，也就是说必须有至少三（3）名成员出席。上诉听证会将根据需要重新安排时间，以达到法定人数。

上诉程序	最后期限或行动
听证会前 14 个日历日	RHC 通知所有上诉方上诉听证日期的最后一天。CSFRA 条例。§5(H)(2)(b)。
听证会前 10 个日历日	RHC 发布暂定决定的最后一天（RHC 可以选择不发布暂定决定）。CSFRA 条例。§5(H)(3)(b)。
听证会前 5 个日历日	当事人提交对临时决定的补充书面材料的最后一天（如果适用）。CSFRA Regs. §5(H)(3)(c)。
听证会日期	在 RHC 举行的上诉听证会

免责声明：无论是出租房屋委员会还是山景城，都不对本信息表在州或联邦法律下的充分性、有效性或合法性提出任何主张。本信息表不打算提供法律建议。请访问 mountainview.gov/rentstabilization 或致电 650-903-6149 了解更多信息。

5. **审查标准:** 上诉决定是基于听证会的记录，出租屋委员会不能听取或发现向听证官提出的事实之外的事实，除非出租屋委员会的大多数成员决定重新打开记录，允许进行全面的事实听证（称为新的听证 De Novo Hearing）。租赁住房委员会只能审查上诉请求中提出的要求。任何听证会官员的决定，如果没有在上诉请求中提出，就会成为最终决定，并且不受租房委员会的重新审查。
6. **新的听证会 De Novo Hearing:** 如果房屋租赁委员会决定为上诉举行新的听证会，上诉听证会将按照 CSFRA 条例第 5 章 E 节的规定，以与调整租金申请的听证会相同的方式进行。各方可向委员会提交新的证据、证人和证词，以确定案件的事实，形成新的听证记录。委员会可以，但不一定要考虑以前的听证会记录。在重新听证会期间，委员会成员将充当听证官。接受委员会重新审查的问题可能受到委员会大多数成员或上诉中提出的问题的限制。
7. **暂定的决定:** 租赁住房委员会可以在上诉听证会前至少 10 个日历日发布一个暂定决定。各方可以在上诉听证会前至少五天对暂定决定作出书面答复，用以下方法之一将答复的副本送达出租屋委员会的指定人员，如果可能的话，同时通过电子邮件或其他方式将副本送达所有其他各方。

通过邮件

Rental Housing Committee
500 Castro Street
Mountain View, CA 94041
送至 Patricia Black

或

通过电子邮件（首选方法）

patricia.black@mountainview.gov

8. **上诉听证程序:** 上诉听证会将根据 CSFRA 条例第 5 章 H 节进行和决定。所有条例可在本市网站 www.mountainview.gov/rentstabilization 上查阅或索取。虽然不要求口头陈述和答复，但上诉的每一方都将有机会陈述他们的立场，并对另一方的论点作出回应。每一方都被限制在以下的具体时间内，不管一方里有多少人。
- 双方将有 10 分钟的时间来陈述他们的立场，不包括回答出租房屋委员会成员提出的任何问题。上诉人将首先陈述他们的论点。
 - 然后，双方将有 5 分钟的时间来口头回应或反驳上诉的另一方提出的论点，不包括回答出租房屋委员会成员提出的任何问题。上诉人将是第一个提出反驳的人。

对听证官决定的上诉

- 适用于议程上所有上诉案的公众评论期

第一次上诉听证会

工作人员报告（如适用）

上诉人陈述论点 最多 10 分钟

答辩人陈述论点 最多 10 分钟

上诉人提出反驳 最多 5 分钟

答辩人陈述反驳意见 最多 5 分钟

RHC 的审议和决定

- 结束上诉听证会

9. **关于上诉的裁决:** 租赁住房委员会可以确认、推翻或修改申请听证会的决定，或将上诉中提出的事项发回给听证官，以进一步查明事实和修改决定（如适用）。如果租赁住房委员会将上诉的全部或部分决定发回给听证官，听证官必须在租赁住房委员会的命令交付给听证官和所有各方后的四十五（45）个日历日内发布并向所有各方提供一份书面的修订决定。

10. **上诉:** 可以就被发回的决定向房屋租赁委员会提出上诉。任何对发回重审的决定提出上诉的请求，必须在决定送达各方后的十天内提出。

山景城租金稳定计划

Patricia Black, 高级管理分析师

298 Escuela Ave, Mountain View, CA 94040 | mountainview.gov/rentstabilization
(650) 903-6149 | patricia.black@mountainview.gov

虚拟办公时间

每周二上午 10:00-12:00 或通过预约

mountainview.gov/rspofficehours



Rent Stabilization Program

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

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 RENTAL HOUSING COMMITTEE ISSUANCE OF TENTATIVE DECISION OF PETITION REQUESTING
ADJUSTMENT OF RENT AS DEFINED BY THE COMMUNITY STABILIZATION AND FAIR RENT ACT (CSFRA)
TENTATIVE DECISION
APPEAL HEARING INFORMATION SHEET**

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 8th day of July, 2022, at the email address(es) as follows to the following individual(s).

Petitioner(s)

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

Respondent(s)

Jane Xiang
Wei Deng

████████████████████
(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 8th day of July, 2022

Signature:

Print Name:

Patricia Black

Address:

298 Escuela Ave, Mountain View, CA 94040