



City of Mountain View

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 25 day of May, 2022, at the email address(es) as follows to the following individual(s).

Respondents

RESPONDENT NAME Iris Martinez
RESPONDENT ADDRESS 1802 Higdon Ave, Mountain View, CA 94041 Unit 2
RESPONDENT EMAIL [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 25 day of May, 2022

Signature: *Wei Deng* *Hong Xiang*

Print Name: Wei Deng Hong Xiang

Address: [REDACTED]



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Mountain View

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Reason for Appeal (Continued)

Please ^{See} attachment
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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: 2122008
Name of Hearing Officer: Barbara M Anscher Decision Date: 5/11/2022

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

1802 Higdon Ave, #2
(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: Wei Deng & Hong Xiang Phone: [REDACTED]
Mailing Address: [REDACTED] Email: [REDACTED]

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: [Signatures] Date: 5/25/2022
Print Name: Wei Deng Hong Xiang

Appeal statement

1. Rent cut \$320.50 starting from March is not reasonable. (P26)

- Not even diagnosed the problem yet and no chance to repair.
 - Ms. Martinez reported to me officially that the bathroom floor may contain mold issues on **Feb 8th** after she tore the laminate floor tiles. During the communication about checking the status of the bathroom floor back and forth, Ms. Martinez texted to me “I was told I can refuse to have anyone come in until the inspectors come. I rather take care of it through the City.” We didn’t get a chance to identify the problem until we received the inspection report from the City. (3/17) Until the City’s inspection report results were back, we could not yet gauge whether or not it is inhabitable.

According to the City's inspection report, we need to apply for a permit first in order to repair. The permit was issued on 4/22/2022.

At this time, after the permit was issued, the petition results had not come out yet. Besides, we first need to figure out when and how to start the project. We need to talk to contractors and also to Ms. Martinez and the City inspectors about how they handle the inspection process. Therefore we can figure out whether we need to apply for a relocation plan or not.

According to the City's decision, the city can allow us to repair it in 3 months. If we do not finish in time, we will reduce her rent.

We believe that Ms. Martinez and we are both waiting for the City’s hearing decision, then we can go to the next step. The proper starting date of the three-month-long repair window should be May 16 when we got the City’s petition decision. If we haven’t finished fixing the bathroom by August 16, we will reduce her rent.

- The ceiling issue in the living room was caused by Ms. Martinez. She should be responsible for what she has done as an adult. She already admitted her actions. She tried to remove the popcorn herself and left it unfinished. To our knowledge, the popcorn cracked by water damage a long time ago before we bought this property, is only located in the hallway right next to the bathroom. The living room and bedroom are away from any water source. We don’t see any connection to the water damage incident. You can see the obvious differences among those 3 locations.

2. Sublease

- **Subleasing should not have been talked about in this petition.** Sublease has *nothing* to do with her inhabitable condition, the main purpose of this petition. Ms. Martinez mentioned her sublease issue in her explanation. Ms. Anscher allowed her. It is extremely off topic.

- The leasing contract we got from the previous landlords and the Estoppel are both active lawful documents. We were shocked by City officers' unfair decisions. Those two documents were not taken into consideration by City Officers at all. Instead, the City officer unfairly applied Section 1705 (a) (2)(A) to turn Ms. Martinez unlawful sublease into a legalized sublease, when 1705 (a) (2)(A) doesn't apply here at all, because we have never mentioned evicting her. We still insist that what we must rely on are the leasing agreement and the Estoppel, two active legal documents.

- The decision letter refers to Section 1705 (a) (2)(A) to show that the tenant has the right to sublease. (P22) This is not correct at all. We disagree! Section 1705 is "Just cause for eviction protections" if Landlord has unreasonably withheld the right to sublease following written request by the Tenant, and Tenant subleased the rent room. We have not unreasonably withheld the right to sublease following a written request, because the Tenant never made a written request. In this case, under Section 1705 (a) (2)(A), the tenant is protected from eviction, yes, but it does not mean the sublease is legal. Ms. Martinez had *never* submitted any written requests to any landlord for sublease. Section 1705(a)(2)(A) demands that a Landlord shall not take any action to terminate the tenancy if (i), (ii) and (iii) are all met.
 1. We did not terminate her lease or did not evict her.
 2. Ms. Martinez only met the (i) condition, and not (ii) and (iii). In 1705(a)(2)(A)(ii), "The sublessee replaces one or more departed tenants under the Rental Housing Agreement on a one-on-one basis;...". This one doesn't apply here either, because Sarah and the other girl were not departed tenants as they never were in the lease. They were not tenants to the previous landlords. Additionally, the Rental Housing Agreement (the Leasing Agreement) does not say that sublease is allowed. The decision letter intentionally omits the wording "...under the rental housing agreement..." and falsely named the departed roommates as departed tenants, when they were never legal tenants in this case. The petitioner has failed her burden of proof with respect to 1705(a)(2)(A), subsection (ii). But in the decision on P22, 2nd paragraph under Subletting, "Petitioner has met her burden of proof with respect to CSFRA section 1705(a)(2)(A), subsections (i) and (ii)." This is not true.

- Although Section 1705(a)(2)(A) is about "Just cause for eviction protections", it does give a window to look at "Breach of Lease" based on a Tenant's sublease of the Rental Unit. The petitioner wants RHC to think that the roommate was a legal tenant. However, her roommates were *never* legal tenants, simply because their names were not on the leasing Agreement.

- Some people may think that since this roommate is a tenant, then the petitioner has legal permission to replace the departed roommate. Since the departed roommate split the rental cost with the petitioner, the half paid by the petitioner can get protection from the CSFRA's rental control, while the new roommate has to pay half price of market average monthly rent agreed with the landlord.
- The decision letter says, p24, "the Estoppel Certificate specifically does not list subletting in its affirmation", and use this as a reason that the subleasing is legal. It is wrong. We do not agree. The estoppel says clearly that it needs to work together with the Leasing Agreement. Because the lease itself is extremely clear, there was no need to repeat it in the Estoppel Certificate, which is the only reason it did not specifically "list subletting in its affirmation."
- However, the 2018 Lease *does* say in paragraph 5 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." The Lease also says in Paragraph 30 that the "Tenant agrees not to sub-lease the Leased Premises without the Landlord's written permission." Ms. Martinez has never requested subleasing in a written document to any landlord. Therefore, her subleasing was illegal and she breached the leasing agreement.
- When we took ownership of this property, Ms. Martinez was the only occupant living in Unit 2. Her roommate moved out before I bought this property. When we did the walkthrough, her father lived in the unit for medical reasons.
- Ms. Martinez had a roommate before we bought this property. However, this fact doesn't change her unlawful behavior. She breached the leasing agreement under the previous landlord's management. No action was taken then, and we respect the Estoppel: we cannot retroactively do anything about her unlawful behavior. However, she should not continue her unlawful sublease. The Estoppel has lawful enforcement, so no verbal or written agreement or understandings between Landlord and Tenant with respect to the Premises. But City officers ignored what the Estoppel means, as well as the leasing agreement.
- We never allowed her to sublease, no matter in verbal or in writing. We have emailed Ms. Martinez on the subject of adding a roommate. In those emails, we told her multiple times that adding a roommate requires a new lease, which means both she and her requested roommate must sign a new lease with me. It could be subject to rent increases due to the rules of the original lease agreement and the Estoppel. We will forward those emails to Ms. Black. In the emails, we sent her links from the Findlaw and Nolo websites as reference.
- But in Decision (P13,14) "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 the petitioner could have a sublessee if she paid more rent." This is

not true. There is a big difference between adding a roommate to a lease and adding a roommate for sublease. Ms. Martinez and I never talked about a sublease; she asked me about adding a roommate (see emails). We told Ms. Martinez multiple times if she wants to add a roommate, yes absolutely, she can. But adding a roommate requires our permission and signing a new lease, which is subject to changes in the rent due to more possible wear-and-tear, my expenses and liabilities. This new lease or rental agreement is important to both parties: for the landlord, it makes the new arrival a cotenant who is 100% responsible for rent and any property damage (known as "joint and several liability"), and desirable for the tenant, because it makes it completely clear that the new roommate shares the same legal rights and responsibilities as she does.

That is what the lease agreement allows us to do lawfully. As a landlord, we are responsible for all the tenants who live in this 4-plex. For all the tenants, they need to meet certain criteria. We need to do background checks and credit checks, make sure her co-tenant is a good person, and share the same responsibilities as Ms. Martinez. Actually, in this case, Ms. Martinez will be benefited and protected, because both of them are responsible for the rent, not just Ms. Martinez herself. She doesn't need to worry if her roommate pays her rent or not. Subleasing is not allowed by the lease agreement and the Estoppel, even though it didn't use the word, but the meaning is the same.

- We found some **solutions** on the Mountain View website about adding a roommate. Ms. Martinez claimed that she equally shared her rent with her previous roommate and did not receive any profit from unlawfully subletting this apartment. Therefore, for her point, she wants her \$1457 rent divided by 2, right? We believe that is her motivation for doing this.
- Rent control will not apply to her future roommate or co-tenant, so it would be half of the current market price. The average fair market price for a 2br1bth in Mountain View is \$3200/month. Half of that is \$1600. Or I can offer \$1400 for her future co-tenant, so it is much easier for her to find a roommate. Is it fair? we think so! If she doesn't have a roommate, our current legal agreement still continues, and she still pays us \$1457/month for now as she is protected by rent control. If the City allows this solution, the problem will be solved and it will benefit everyone. We're all happy! Thank you!
- In the hearing, Ms. Martinez already agreed to the leasing agreement, that if she adds a co-tenant or roommate, she knows it would be subject to the adjustment of rent. She only pleaded not to raise a lot, but in a reasonable range. (You can double check with the video record of the hearing) But in the City's decision, we can not increase rent at all. That is not reasonable. We disagree! As anyone knows, adding a roommate increases landlord's expenses, not only the wear and tear. We need to pay more for water, hot water(gas) and sewer, trash, etc. In the mail we got from Mountain View city, the fiscal year 2022-2023 recommended that rate increases for utilities are:
Water - 12%

Sewer - 8%

Trash/Recycling/Organics - 6%.

As you can see our expenses are increasing, and the City not only allowed unlawful subletting without any convincing law as support, but also prohibited us from raising a rent for adding a new occupancy. This does not make any sense!

3. The City officers have **not been fair and Neutral** to us, the landlords at all. As Mediator and the City officers, their points should be fair and neutral. But it is not true in this case. We strongly plead to assign a different mediator and new group of officers to handle this appeal.

1. City officers allowed discussing about sublease in this petition, which is off topic
2. City officers allowed Sarah Becca Castro to be a witness who was not on the witness list. This is a witness raid.
3. Ms. Anscher asked us in the hearing about our plan to convert the unused garage into an ADU. This is not relevant to the petition with Ms. Martinez at all. Ms. Martinez is just a tenant in Unit 2. We are questioning her purpose in asking this question, as it is irrelevant to the petition and unreasonable to us. We don't need to report to our tenants about future plans in our imaginations, unless we plan to start the project soon and it affects them.
4. In this decision, our words had been distorted multiple times.
 - We never said that we will not repair the bathroom.
 - We never said that we allowed sublease. We have said that we absolutely allow her to find a roommate to sign a new lease with us for their cotenancy, first passing our screen check and getting our approval, as all landlords should do in any other leasing agreement. According to the leasing agreement and the Estoppel, it may be subject to rent adjustment. (I will forward the emails to Ms. Black.)
 - City officers applied a wrong section of law and intentionally omitted the requirements. (see above)
 - City officers also ignored what Ms. Martinez and I both said in the hearing when her bathroom sink failed to drain properly. It just happened on the day Mr. Jim came to do the inspection. Ms. Martinez didn't report that situation to me at all. How would I know and respond to the situation if it was not brought to my attention before? It was impossible for me to know before it happened.
 - The start point date was wrong: Ms. Martinez didn't report about the bathroom floor situation until Feb. 8th. Like I said in the hearing, I am not professional at diagnosing structure problems by just walking on the floor, not even my contractors would know. They said they couldn't tell until they could open the floor. And besides, when I walked on the floor, my attention was focused on the bathroom wall or the toilet where she pointed out to me. Ms. Martinez sent a text message to me about the floor issue on Feb 8th after she tore her blue vinyl tiles off. That was the time she officially reported to me about the bathroom floor issue. After that, I tried to check and didn't get a chance to. Then, when I got the

inspection report on March 17, I realized that the floor did have problems. Since we are not experts on structure or housing, an inspection report from the City is the only lawful authority document.

- Our requests got no response.
 - We requested a copy of her bedroom door keys. No answer in this hearing decision.
 - We requested to check the unpermitted installation of the electrical outlet. No result shows on the record. If later on, any fire hazard happens to my property due to this unpermitted installation, who would be responsible for that? I suggested removing the extra unpermitted outlet which also should be at her cost.
 - We requested to keep a record of no kitchen cabinet doors. Ms. Martinez removed herself without getting consent from the previous landlord. She can ask me to install cabinet doors back for her. We never heard anything. Our requests are totally ignored.
 - We requested a written 24 hour notice for her for the repair. I did not see a single word about it in the decision part.
- In this decision, “Petitioner suggested that she could move to the apartment upstairs while the ceiling was being repaired, but respondent Ms. Xiang refused.” (P13,13) This kind of sentence has been mentioned multiple times, I don’t understand why I have to say “Yes!” to this type of question. Unit 4 has nothing to do with Ms. Martinez. She leased Unit 2, not Unit 4. We can arrange for her to live there if we like, but we are not at all obligated to do so, as it is a completely different apartment. No one should force us! Please remember that Ms. Martinez told me she herself made the ceiling like that because she tried to remove the popcorn herself and left it unfinished, it was her fault. Why would I be legally responsible for the problem she caused? The living room and the bedroom are nowhere near any water source. It is impossible to blame the water incident 12 years ago.
- In the decision on P18, the first paragraph “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.” I don’t know where this comment is coming from. In the response document to the petition, I stated multiple times that “**we will repair the bathroom**”. We never denied a duty as a landlord to fix the problems for this property. We have always stated that we will repair it. Again, my words have been distorted.
- In Page 18 2nd paragraph, “ Respondents also argue that they are not responsible for the condition in the bathroom because the petitioner caused it.” Again here, the city officers are talking about something else. My meaning is since the water incident happened at least 12 years ago, the water damage has never been solved in those long years. If they had reported promptly to previous landlords, and/or filed a petition in a timely fashion back then if the problem was

not fixed, the bathroom issue would have been solved a long time ago and it would not have caused the extent of the damage as right now.

- So many misunderstandings like this, we feel we have been discriminated against by the City in the process of this petition.

In Summary:

1. We disagree with the rent cut starting from March. The start point should be May 16th, 2022 when we both got the decision from the City. As the city implied in this decision, 3-months is a reasonable time to fix the problem. If we can't finish fixing the problem by August 16, we will reduce the rent after then. But we hope to fix it as soon as possible, and are planning right now.

2. Allowing her sublease and not allowing changes in rent if adding a new roommate voids the leasing agreement and the Estoppel, and we disagree. Mountain View City, as a governor, should serve everyone in Mountain View. The City has lawful power to regulate people's behaviors. The City should not support unlawful behaviors and abide by any active lawful documents, the leasing agreement and the Estoppel in this case.

As an alternative, we strongly propose the solution for adding a new roommate.

- We found some **solutions** on the Mountain View website about adding a roommate. Since Ms. Martinez claimed she equally shared her rent with her previous roommate and not getting any profit from unlawfully sublet this apartment. Therefore, for her point, she wants her \$1457 rent divided by 2, right? That is her motivation for doing this. For her future roommate, she/he should not be protected by the rent control. So half of the current market price applies to the roommate. The average fair market price for a 2br1bth in Mountain View is \$3200. Half of that is \$1600. Or I can offer \$1400 for her roommate, so it is much easier for her to find a roommate. Is it fair? I think so! If she doesn't have a roommate, she still pays me \$1457/month for now. If the City allows this solution, the problem will be solved and it will benefit everyone. We're all happy! Thank you!

3. In this decision, there are lots of places that distorted my words and meanings. We feel unfairly treated, almost even possibly like discrimination.

4. Please answer our request from hearing!

- We requested a copy of her bedroom door keys. No answer in this hearing decision.
- We requested to check the unpermitted installation of the electrical outlet. No result shows on the record. If later on, any fire hazard happens to my property due to this unpermitted installation, who would be responsible for that? I suggested removing the extra unpermitted outlet which also should be at her cost.

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