Rental Housing Committee
Second Tentative Appeal Decision

Petition No. 17180002

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

I. Summary of Proceedings

Lindsay Properties, LLC ("**Appellant-Landlord**") submitted a petition for upward adjustment of rent on December 22, 2017 applicable to 68 units (the "**Initial Subject Units**")[1], located at 141 Del Medio Avenue (the "**Property**"). The Petition was accepted by RHC staff on January 4, 2018.

A pre-hearing settlement conference was scheduled for February 14, 2018. After the pre-hearing settlement conference, the Petition was assigned to Hearing Officer Jil Delasandro (the "**Hearing Officer**") and a hearing was scheduled for March 27, 2018.

Residents of the Initial Subject Units, and the Del Medio Manor Tenants Association (an unincorporated association), submitted a response in opposition to the Petition dated February 12, 2018 via its authorized representative the Community Legal Services of East Palo Alto (the "**Respondent-Tenants**").

Upon review of the Petition and documents from Respondent-Tenants, the Hearing Officer requested additional information from the Appellant-Landlord via a document dated February 28, 2018. The Hearing Officer also requested a pre-hearing telephonic meeting, which was scheduled for March 7, 2018. After the pre-hearing telephonic conference, the Hearing Officer requested additional information from the Respondent-Tenants via a document dated March 7, 2018.

Appellant-Landlord submitted revised worksheets on April 4, 2018, which reduced the number of units for which a rent increase was sought from 68 to 56 (the "**Subject Units**").[2] The initial submission accepted by staff on January 4, 2018, as superseded by the April 4, 2018 submission is collectively referred to as the "**Petition**."

[1] The Initial Subject Units are: 101, 102, 105, 108, 109, 110, 112, 113, 115, 116, 117, 119, 121, 123, 124, 126, 127, 128, 130, 131, 132, 133, 135, 201, 205, 206, 208, 209, 210, 211, 213, 214, 215, 218, 219, 220, 222, 223, 224, 229, 230, 232, 233, 234, 235, 301, 304, 306, 307, 308, 309, 310, 312, 313, 314, 315, 317, 318, 319, 322, 324, 327, 328, 329, 331, 332, 333, and 334.

[2] The following Initial Subject Units were no longer proposed for rent increases in Appellant-Landlord's April 4, 2018 submission: 113, 116, 117, 124, 235, 306, 314, 317, 318, and 324. Accordingly, the Subject Units are: 101, 102, 105, 108, 109, 110, 112, 115, 119, 121, 123, 126, 127, 128, 130, 131, 132, 133, 135, 201, 205, 206, 208, 209, 210, 211, 213, 214, 215, 218, 219, 220, 222, 223, 224, 229, 230, 232, 233, 234, 301, 304, 307, 308, 309, 310, 312, 313, 315, 319, 322, 327, 328, 329, 331, 332, 333, and 334.

Respondent-Tenants submitted briefing materials and twenty tenant declarations in response to the Hearing Officer request.

The Hearing Officer presided over a public hearing on May 22, 2018, in which the Appellant-Landlord and Respondent-Tenants participated. The May 22, 2018 hearing was recorded and is available as a part of the administrative record.

At the conclusion of the hearing, the Hearing Officer requested additional information from both the Appellant-Landlord and Respondent-Tenants and left the record open. Additional documentation was received and the hearing record was closed on June 13, 2018.

The Hearing Officer decision dated July 5, 2018 was delivered on or about July 16, 2018 and included an amendment to the original decision (collectively, the "**Decision**").

A timely appeal of the Decision was received from Appellant-Landlord on July 20, 2018. A timely appeal of the Decision was also received from Respondent-Tenants on July 24, 2018. A hearing of the appeals was held before the RHC on August 27, 2018, which resulted in the affirmation, modification, and remanding of various aspects of the Decision. Specifically, the RHC provided direction to the Hearing Officer on thirteen appeal elements (identified as items A.1 through J) and the Petition and Decision were therefore returned to the jurisdiction of the Hearing Officer ("**RHC Guidance**").

The Hearing Officer, based on the Petition record that was closed as of June 13, 2018, revised the outcome of the Petition in a "**Decision After Remand**" dated December 10, 2018. A timely appeal of the Decision was received from Appellant-Landlord and from Respondent-Tenants on December 21, 2018.

II. 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.

Three additional regulation sections are specifically applicable to this second appeal regarding the Petition. Regulation Chapter 5, section H.4.a states, "The Rental Housing Committee shall only review the claims raised in the appeal of the Decision." Regulation Chapter 5, section H.4.c states that the RHC "shall consider the Hearing Officer's Decision final with respect to matters not raised in the appeal." And Chapter 5, section H.5.c states: "The Decision of the Rental Housing Committee shall be final unless a party files a timely judicial action to challenge the ruling."[3]

[3] Although Regulation Chapter 5, Section H was amended pursuant to RHC Resolution __ (2018), the amendments did not alter the quoted sections.

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 Second Tentative Appeal Decision identifies the elements of the Decision that are subject to appeal by (A) the Appellant-Landlord, and (B) the Respondent-Tenants. The Second Tentative Appeal Decision regarding each appealed element is provided in Section IV of this Second Tentative Appeal Decision.

A. Appellant-Landlord Appeal Elements

The Appellant-Landlord's appeal includes five general assertions and enumerates ten challenges to elements of the Decision After Remand. The five broad assertions are briefly identified and then the ten appeal elements are discussed below, along with relevant information from the Petition, Decision, RHC Guidance, and Decision After Remand are provided below.

The five general assertions include three complaints and one request. First, Appellant-Landlord expresses dissatisfaction with the timeline to fully address the Petition, and notes that Regulations adopted after the initial Appeal require a decision after remand be provided within forty-five days after remand by the RHC.

Second, Appellant-Landlord alleges the Hearing Officer applied a different standard of evidence, resulting in a greater burden on Appellant-Landlord than on Respondent-Tenants. Third, Appellant-Landlord repeatedly indicates that the Hearing Officer "disregarded" or "fail[ed] to acknowledge" relevant evidence or argument submitted by Appellant-Landlord. To that end, Appellant-Landlord concludes that the Hearing Officer has a demonstrated "bias" against Appellant-Landlord and preemptively objects to the remand of any issues to the Hearing Officer.

1. Denial of Vega Adjustment

Appellant-Landlord states that the Hearing Officer "improperly relied on the age of the building and other purely subjective and other entirely refuted factors, as the basis for" the Decision finding the Respondent-Tenants rebutted any presumption in favor of a Vega Adjustment. Appellant-Landlord further requests reconsideration of the conclusion that junior one-bedrooms be calculated as efficiencies for purpose of the Vega Adjustment regulations.

2. Adjusted Gross Income in the Base and Petition Years

Appellant-Landlord states that the Hearing Officer "improperly refused to accept [Appellant-Landlord's] submission of audited financial statements and recalculated income."

3. Exclusion of California Apartment Association Fees

Appellant-Landlord states that the Hearing Officer relied on information "outside the record" to speculate as to the fraction of California Apartment Association dues that support lobbying versus administrative support for Appellant-Landlord. Appellant-Landlord further notes that the reference in the Decision After Remand to litigation about the CSFRA is irrelevant.

4. Calculation of Management Expenses in Base and Petition Years

Appellant-Landlord asserts that the Hearing Officer "improperly eliminated salaries and associated benefits in both the base and petition years based on a fundamental misunderstanding or misinterpretation of the industry standard distinctions between resident versus property management." Appellant-Landlord notes previous changes in bookkeeping practices in the base year and concluded the Hearing Officer was "not qualified" to make determinations regarding management expenses.

5. Categorization of Salary Expenses

Appellant-Landlord appears to challenge the exclusion of salaries from base year and petition year ordinary repair, replacement, and maintenance costs. Appellant-Landlord does not identify how to resolve the challenged element of the Decision After Remand, but references submission the Hearing Officer dated April 18 and May 17, 2018.

6. Calculation of Base Year and Petition Year Operating Expenses

Appellant-Landlord appears to broadly challenge the calculation of Operating Expenses in the base year and petition year. Appellant-Landlord references unspecified submissions to the Hearing Officer and does not identify specifically what issue is appealed or how to resolve the broad disapproval of the calculation of Operating Expenses in the base year and petition year.

7. Exclusion of Pavers from Amortized Capital Improvements

Appellant-Landlord appears to challenge the exclusion of costs to install pavers around the pool deck from amortized Capital Improvements. Appellant-Landlord asserts that, "capital improvements listed are taken from audited tax returns" and "are accurate[.]"

8. Exclusion of Certain Parking Lot Resurfacing and Elevator Costs from Amortized Capital Improvements

Appellant-Landlord states, "There is no reason for [elevator repair and parking lot resurfacing] expenses to be categorized as anything but Capital improvements." Appellant-Landlord notes that the expenses were "correctly listed" and "amortized appropriately." Appellant-Landlord asserts that excluding the expenses "would conflict with the stipulations of the CSFRA and applicable regulations."

9. $1,100 Payment to P.W. Stephens

Appellant-Landlord asserts that the $1,100 payment to P.W. Stephens for environmental services should be counted once, not twice, for purposes of calculating Operating Expenses. Appellant-Landlord does not assert either that the Decision After Remand excludes, counts, or double counts the $1,100 payment.

10. Equal Allocation of Rent Increases Among All Units

Appellant-Landlord appeals the allocation of rent increases based on the maintenance of net operating income methodology equally among all units on the Property, as compared to allocation only among the Subject Units.

Appellant-Landlord asserts that allocation of increases across all units "will not and cannot be imposed on those new tenants who are already paying a much higher rental rate than" tenants of the Subject Units. Appellant-Landlord notes that modifications to Regulation Chapter 6, Section J regarding allocations, adopted while the decision was remanded to the Hearing Officer, now provide guidance regarding the allocation of increases with respect to relative unit size and different amenities. Appellant-Landlord does not propose a specific allocation in the appeal based on the new guidance in Regulation Chapter 6, Section J.

B. Respondent-Tenants Appeal Elements

Respondent-Tenants submitted a contingent appeal, such that the Respondent-Tenants appeal should only be heard if the Appellant-Landlord filed an appeal. As both parties filed appeals, three appeal elements from Respondent-Tenants are summarized below. In addition to the appeal elements below, Respondent-Tenants request acknowledgement of alleged rent increases effective on December 1, 2018, with respect to the annual limit on rent increases included in CSFRA section 1707(b).

1. Calculation of Petition Year Ordinary Repair, Replacement, and Maintenance Costs

Respondent-Tenants assert that although the Hearing Officer purported to exclude salaries from petition year ordinary repair, replacement, and maintenance costs, the Decision After Remand did not exclude all salaries. Respondent-Tenants identify $215,505.92 worth of salaries and request they be excluded. Respondent-Tenants assert that the Hearing Officer's exclusion of $190,669.25 is "unsupported by evidence in the record . . ."

2. Calculation of Petition Year Business License Fees

Respondent-Tenants assert that the Decision After Remand calculates petition year business license fees to include $239.80, which figure equals "Go Daddy charges that were refunded" even though the amount was excluded from the business license fees in the initial Decision and not subject the subject of appeal.

3. Calculation of Base and Petition Year Costs for Ordinary Repair, Replacement, and Maintenance Due to Reimbursable Costs

Respondent-Tenants further appeal the calculation of ordinary repair, replacement and maintenance costs in the Decision After Remand for the base and petition years. Respondent-Tenants argue that of the cleaning expenses identified for the base year ($2,130) and petition year ($2,320) and of turnover expenses identified for the base year ($14,199.75) and petition year ($46,211.83), "[a]t least some of these expenses were eligible for reimbursement."

IV. Tentative Decision Regarding Appealed Elements

Both Appellant-Landlord and Respondent-Tenants have appealed some of the same elements of the Decision, which require evaluation and calculation of income and expenses in the base and petitions years. Each appealed element of the Decision is discussed below.

A. Appellant-Landlord Appeal Elements

Appellant-Landlord's general allegations are addressed first, followed by a discussion of each enumerated appeal element.

Appellant-Landlord claims "significant and repeated delays associated with the review of [Appellant-Landlord's] petition have themselves prevented [Appellant-Landlord] from recovering a fair rate of return . . ." The Decision After Remand discusses the history of the Petition, including a brief explanation of delays (pp. 4-5). Moreover, Regulation Chapter 6, section B defines a fair rate of return as the ability to maintain the value of net operating income earned prior to implementation of the CSFRA. As the California Supreme Court concluded in *Kavanu v. City of Santa Monica* (1997) 16 Cal. 4th 761, 766: "[Appellant-Landlord] may obtain a full and adequate remedy for any interim loss flowing from [any alleged] due process violation through an adjustment of future rents under the rent regulation process."[4]

The second and third general allegations relate to purported Hearing Officer bias against Appellant-Landlord and in favor of Respondent-Tenants. Appellant-Landlord claims the Hearing Officer rejected relevant evidence from and accepted "unsubstantiated allegations made by tenants[.]" Despite these claims, the initial Decision states, "There was no evidence that was offered but not accepted into evidence." (Decision, Evidence, § V.17.) The Decision After Remand concludes that evidence submitted with the appeal was not accepted. (Decision After Remand, Evidence Used on Remand § III.17.) However, Appellant-Landlord also claims "All information was submitted prior to the hearing. [And Appellant-Landlord] did not attempt to raise new issues at the appeal . . ."

Rather than acceptance or review of admitted evidence, it appears Appellant-Landlord has concluded that the Hearing Officer's conclusions finding some evidence to be more credible than other evidence equates to Hearing Officer bias.[5] It is the job of hearing officers to receive evidence, and if competing evidence is submitted—to determine which is more credible, when determining whether a petitioner has fulfilled the petitioner's burden to prove any claims within the petition by a preponderance of the evidence.

[4] Respondent-Tenant's allege Appellant-Tenant has noticed rent increases during the pendency of the Petition. Landlords are not precluded from implementing lawful rent increases, such as an Annual General Adjustment, during the pendency of a Petition.

[5] *See* Decision After Remand, Legal Analysis, Statement of the Procedural Nature of the Case, § VI.1 paragraph 3, which appears to discuss hearsay and admissibility of evidence under California law as some of the factors indicative of the credibility of admitted evidence.

1. Vega Adjustment

As a preliminary matter, Appellant-Landlord requests reconsideration of the valuation of junior-one bedrooms for purposes of any Vega Adjustment. This issue was the subject of the previous appeal and the Hearing Officer's initial determination was affirmed by the RHC. Therefore the issue of the treatment of the junior-one bedrooms is final and is not properly subject to a second appeal. While regulations adopted after the appeal provide for an alternative method of estimating a "HUD Rent" for junior one-bedroom units, such method was not available to the Hearing Officer during the Hearing and neither Appellant-Landlord nor Respondent-Tenants were able to submit information or argument regarding the appropriate application of the new regulation. Accordingly, the request to re-hear an issue that was previously resolved, albeit based on a superseded regulation, is denied. Should Appellant-Landlord wish to receive the benefit of the new regulation, Appellant-Landlord can withdraw and resubmit a new Petition to cover the Subject Units, or submit a new Petition related to other units on the Property.

Substantively, Appellant-Landlord appeals the conclusion that Respondent-Tenants successfully rebutted the presumption that Appellant-Landlord is entitled to a Vega Adjustment. Evidence in the record supports the position of Appellant-Landlord. Other evidence in the record supports Respondent-Tenants. The Hearing Officer, in the initial Decision and the Decision After Remand, states that the evidence in favor of Respondent-Tenants is more credible and therefore finds for Respondent-Tenants. Upon reconsideration, Respondent-Tenants have not met the burden to rebut a presumption in favor of a Vega Adjustment, as detailed below.

a. Appellant-Landlord entitled to presumption for Vega Adjustment

Appellant-Landlord sought rent increases for 56 Subject Units. Because a Vega Adjustment would be inappropriate for non-Subject Units[6], Appellant-Landlord effectively sought a Vega Adjustment for 22 of the 56 Subject Units. As set forth in the table below, Appellant-Landlord has met the initial burden of demonstrating that average monthly rents received in the base year for 22 Subject Units is $15,979 less than the rent that would have been received had Appellant-Landlord charged and received the HUD Rent for those 22 Subject Units.

Table ___ Vega Adjustment

Unit #	**Unit Type**	**Rent Received** (Annual $)	**Vega Adjusted Income** (Annual $)	**Difference** (Annual $) *Vega Adjustment. less Rent Received*
108	Jr. 1-Bdrm	13,700	14,556	856
109	Jr. 1-Bdrm	13,760	14,556	796
110	2-Bdrm	20,400	21,708	1,308
131	Jr. 1-Bdrm	14,400	14,556	156
132	Efficiency	13,900	14,556	656
135	Efficiency	13,500	14,556	1,056
206	Sm. 1-Bdrm	16,300	17,028	728
208	Jr. 1-Bdrm	13,900	14,556	656

[6] *See* RHC Guidance A.2, limiting Vega Adjustment calculations to Subject Units only.

209	Jr. 1-Bdrm	13,900	14,556	656
210	2-Bdrm	19,100	21,708	2,608
211	Jr. 1-Bdrm	14,400	14,556	156
219	Sm. 1-Bdrm	16,635	17,028	393
224	Efficiency	14,040	14,556	516
233	Jr. 1-Bdrm*	14,060	14,556	496
234	Efficiency	14,015	14,556	541
301	Jr. 1-Bdrm	13,800	14,556	756
309	Jr. 1-Bdrm	14,395	14,556	161
310	2-Bdrm	20,300	21,708	1,408
319	Sm. 1-Bdrm	16,650	17,028	378
327	Jr. 1-Bdrm	14,520	14,556	36
333	Jr. 1-Bdrm	13,725	14,556	831
334	Efficiency	13,725	14,556	831
			Presumptive Vega Adjustment (expressed as an increase to base year gross income)	**15,979**

* Unit type is contested.

b. Respondent-Tenants have not rebutted the Vega Adjustment presumption

RHC Guidance A.2 remanded discussion of the Vega Adjustment issue so the Hearing Officer could clarify the evidence that supports Respondent-Tenants' argument that although average monthly rents received in the base year for 22 Subject Units was less than HUD Rents, the actual amounts received by Appellant-Landlord reasonably reflected physical and market conditions applicable to the units and Property.

Respondent-Tenants provided argument and evidence regarding the physical conditions of the property and units, but failed to demonstrate how such conditions impact the market conditions applicable to the Subject Unit rents in the base year. The age and location of the building is uncontested, although the noise and air-quality impacts of the adjacent lumberyard were subject to debate.

Most notably, Respondent-Tenants argued that higher rents received in the base year for non-Subject Units were the result of remodeling upon turnover of tenants. Appellant-Landlord acknowledged that units are generally improved during vacancy and turnover, in order to achieve a greater rent. Respondent-Tenants fail to explain why only 22 – less than half – of the Subject Units presumptively warrant a Vega Adjustment even though all Subject Units had not been recently renovated or improved. Recent renovations may explain some discrepancy between units in the same Property, but does not alone demonstrate that physical and market conditions applicable to the Property and Subject Units justify rents received for those units in the base year that are less than HUD Rents. Hypothetically, an analysis that only compares rents and amenities applicable to units in the same building might be sufficient to rebut a presumptive Vega Adjustment, but that is not the case in this instance.

Because Respondent-Tenants have not fulfilled the burden to rebut the presumption in favor of granting a Vega Adjustment, Appellant-Landlord's request to review the Vega Adjustment is

denied in part and granted in part. The Decision After Remand is **modified** to grant a Vega Adjustment totaling $15,979, which figure shall be added to base year adjusted gross income for purposes of the maintenance of net operating income calculations, as reflected in the Maintenance of Net Operating Income Calculation Exhibit to this Second Tentative Appeal Decision

2. Adjusted Gross Income in Base Year and Petition Year

Although Appellant-Landlord asserts dissatisfaction with the calculation of adjusted gross income under the CSFRA and implementing regulations, the use of adjusted gross income for purposes of the CSFRA is different from other purposes that also define "adjusted gross income," such as federal income tax. Notwithstanding this dissatisfaction, Appendix A of the Decision After Remand shows that the Hearing Officer accepted Appellant-Landlord's base year adjusted gross income of $1,662,979. Appendix A shows that the Hearing Officer found that petition year adjusted gross income equals $1,863,756.14, which reflects an increase of $7,126.14 as compared to the figure proposed by Appellant-Landlord in the April 4, 2018 submission. The Decision After Remand clarifies that the $7,126.14 figure accounts for unimplemented annual general adjustments. Substantial evidence supports the Decision After Remand and so it is **affirmed**; this element of Appellant-Landlord's appeal is denied.

3. California Apartment Association Fees

The Decision After Remand excludes payments of $860.25 in the petition year to the California Apartment Association. The Decision After Remand cites a discussion of the contested expense at the Hearing and concludes that Appellant-Landlord "failed to demonstrate why this expense should not be excluded [as a lobbying expense, and further] Petitioner did not apportion this fee to claim only its non-lobbying expenses." (Decision After Remand, Legal Analysis § VI.6.a.)

In its appeal, Appellant-Landlord does not cite evidence in the record supporting an apportionment of the payments to the California Apartment Association between excluded lobbying expenses and Operating Expenses as defined in Regulation Chapter 6, Section E. Therefore, the determination of the Decision After Remand that a preponderance of the evidence supports a conclusion that payments to the California Apartment Association constituted contributions to lobbying efforts or advocacy organizations and there was an absence of credible evidence in the record to support an apportionment of such payments is **affirmed**; this element of Appellant-Landlord's appeal is denied.

4. Calculation of Base and Petition Year Management Expenses

Appellant-Landlord appears to misunderstand or mischaracterize the concept of management expenses for purposes of the CSFRA. Management expenses are presumed to equal six percent of the adjusted gross income earned from a Property. (Regulation Chapter 6, Section E.1.j.) However, a petitioner may rebut this presumption by proving that management expenses exceeding six percent of adjusted gross income "do not exceed [management expenses] ordinarily charged by commercial management firms for similar residential rental properties.

The RHC Guidance for the Hearing Officer affirmed application of Regulation Chapter 6, Section E.1.j to presume management expenses equaled six percent of adjusted gross income. (RHC Guidance, §§ E and F.) The calculation of management expenses was remanded for the limited purpose of recalculation only if adjusted gross income calculations required modification. Once adjusted gross income was determined for the base and petition years, then the Hearing Officer was instructed to re-calculate management expenses based on Regulation Chapter 6, Section E.1.j.

The Decision After Remand accurately calculates six percent of the adjusted gross income earned in the base and petition years. The Decision After Remand states that Appellant-Landlord "presented absolutely no evidence" regarding management expenses charged by commercial management firms for similar residential rental properties. (Decision After Remand, Legal Analysis § VI.6.b.) Appellant-Landlord does not cite any relevant evidence regarding this issue in the appeal. Therefore, the calculation of management expenses in the base and petition years defined in the Decision After Remand is **affirmed**; this element of Appellant-Landlord's appeal is denied.

5. Categorization of Petition Year Salary Expenses

Appellant-Landlord asserts that salary expenses were mischaracterized and excluded. The salary expenses subject to the initial appeal and therefore within the scope of the Decision After Remand relate to salary and labor costs that are one component of ordinary repair, replacement, and maintenance costs. The Decision After Remand noted that "salaries" were line item expenses under both management expenses and ordinary repair, replacement, and maintenance costs. The Decision After Remand states, "neither Petitioner's Representatives nor its bookkeeper, Ms. Whitman, could explain the difference and the documents provided with the Petition contained documentation for all of the salaries in the 'Management Expense' section." (Decision After Remand, Legal Analysis § VI.6.c.)

Appellant-Landlord asserts that submissions on April 18[7] and May 17 properly apportion the salaries as management expenses or ordinary repair, replacement, and maintenance costs. Exhibit E, as identified in the Decision After Remand, is dated May 17 and is comprised of 84 pages. Exhibit E appears to be an 82-page copy of Respondent-Tenants "Supplemental Response in Opposition to the Petition Requesting Upward Adjustment of Rent" (Exhibit D to the initial Decision), with comments inserted by Appellant-Landlord. It appears Appellant-Landlord included Respondent-Tenants' original attachments without commentary, but added a two-page addendum discussing Respondent-Tenants' spreadsheet attachments.

Attachments 1 and 2 are labeled "Base" and "Petition Year Improperly Categorized Management Expenses." The base year spreadsheet identifies salaries as "employee compensation" and does not distinguish between management expenses or ordinary repair, replacement, and maintenance costs. The petition year spreadsheet identifies two "Salaries" line items as payments to "Landlord's management company." The remaining three line items in the petition year spreadsheet reference "employee compensation" but do not distinguish between management

[7] It is unclear to which Exhibit Appellant-Landlord is referring.

expenses or ordinary repair, replacement, and maintenance costs. Appellant-Landlord's response to the spreadsheets claim, "all salaries and insurance payments are for individuals that work on-site only" and specifically address accounting/bookkeeping practices. Appellant-Landlord's response to the spreadsheets does not distinguish among management expenses and ordinary repair, replacement, and maintenance costs.

Based on a review of the evidence in the record, as referenced by Appellant-Landlord, there appears to be no basis to distinguish or apportion salaries between management expenses or ordinary repair, replacement, and maintenance costs, as is stated in the Decision After Remand. Without identifying appropriate evidence in the record to support the claim that salaries are mis-categorized, Appellant-Landlord's appeal of this element must fail; the Decision After Remand is **affirmed** regarding the calculation of ordinary repair, replacement, and maintenance costs by subtracting $190,669.25 and $215,505.92 from the base year and petition year, respectively.

6. Calculation of Base Year and Petition Year Operating Expenses

Appellant-Landlord asserts a general dissatisfaction with the calculation of Operating Expenses in the base year and petition year. Appellant-Landlord's appeal states "substantial changes to both the base and petition year expenses have eliminated significant accurate, credible expenses. The [Hearing Officer's] decision to disallow these expenses was improper." This appeal element does not identify any specific disallowed expense.

While no specific disallowed expense is identified in the appeal element, there is reference to "HO Decision 7" and to RHC Guidance G.1 and G.2. Item 7 of the Issues Subject to Remand of the Decision After Remand states, "Categorization of Petition Year salary expenses as Ordinary Repair, Replacement and Maintenance Expenses versus Management Expenses." (Decision After Remand, Issues Subject to Remand, § II.7.) This issue is discussed above in appeal element A.5. Section 7 of the Legal Analysis of the Decision After Remand is titled "Base and Petition Year Capital Improvements – Pavers," which issue is identified as appeal element A.7. (Decision After Remand, Legal Analysis, § VI.7.) Similarly, RHC Guidance identified as G.1 and G.2 address ordinary repair, replacement, and maintenance costs in the base year and petition year, respectively. Again, these issues are addressed as appeal elements A.5, and so additional analysis is not warranted here. While acknowledging Appellant-Landlord's dissatisfaction with the calculation of operating expenses, this appeal element does not state a claim or provide the legal basis for such claim as required by Regulations Chapter 5, Section H.1. Therefore, the Appellant-Landlord's appeal element is denied and the Decision After Remand is **affirmed**, except to the extent it is modified, below.

7. Exclusion of Pavers from Amortized Capital Improvements

Appellant-Landlord references discussion of the exclusion of pavers near the pool deck from capital expenses and states, "The capital improvements listed are taken from audited tax returns. They are accurate as stated and any [of] the [Hearing Officer's] effort to disallow them must be more extensively scrutinized as it would conflict with IRS and industry standards."

Notwithstanding the definitions for and what qualifies as "capital improvements" for purposes of the Internal Revenue Service or industry standards, the CSFRA strictly regulates capital improvements. For example, CSFRA section 1710(a)(3)(C) states that the following costs shall not be considered relevant for purposes of determining a fair rate of return.

> "The costs of capital improvements that are ***not necessary to bring the property into compliance or maintain compliance*** with applicable local codes affecting health and safety[.]" (Emphasis added.)

To implement the limitation on capital improvements for purposes of petitions for upward adjustments, Regulation Chapter 6, section F identifies three codes affecting health and safety (Mountain View City Code Section 25.58, incorporated portions of the International Property Maintenance Code, and referenced portions of the California Green Building Standards).

Appellant-Landlord does not reference applicable health and safety codes or describe how the capital improvement is necessary to bring the Property into compliance or maintain compliance with health and safety codes. In contrast, the Decision After Remand cites evidence in the record submitted by Appellant-Landlord, which indicates that the installation of pavers was not necessary. (Decision, Legal Analysis, § VI.7.) The Decision After Remand states, "Petitioner has the burden of proving by a preponderance of the evidence that the [purpose of the] improvement complies with health and safety codes . . ." The Decision After Remand indicates Appellant-Landlord did not provide evidence that the purpose of installing the pavers was to comply or maintain compliance with health and safety codes and Appellant-Landlord's appeal element does not reference such evidence in the record or argue that such evidence exists. Accordingly, Appellant-Landlord's appeal element is denied and the Decision After Remand excluding the cost of pavers from capital improvement costs is **affirmed**.

8. Exclusion of Certain Parking Lot Resurfacing and Elevator Costs from Amortized Capital Improvements

Appellant-Landlord asserts that elevator repairs and parking lot resurfacing were capital improvements, and so the expenses should not be categorized as anything but capital improvements. As discussed in appeal element A.7, above, a "Capital Improvement" that is eligible for inclusion as one factor in a petition for upward adjustment is a term of art specific to the CSFRA. Whether an expense is incurred for a capital improvement is only one part of the question. The CSFRA precludes consideration of capital improvements that are not necessary to bring a property into compliance or maintain compliance with applicable local codes affecting health and safety.

Therefore, the question of whether certain costs for elevator repair and parking lot resurfacing can be considered in the Appellant-Landlord's Petition depends on whether a preponderance of the evidence supports the unstated assertion that the improvements were required by applicable health and safety codes. Appellant-Landlord's appeal does not identify any relevant health or safety code for either capital improvement. Still, each improvement is discussed below.

The Decision After Remand states, "[Appellant-Landlord] provided no evidence that the parking lot resurfacing was a necessary cost rather than an unnecessary over-improvement and provided only two 'after' pictures to support parking lot resurfacing expenses . . ." (Decision, Legal Analysis, § VI.8.) The Decision After Remand indicates that the more persuasive evidence in the record was offered by Respondent-Tenants, who argued that "the property had been resurfaced two (2) years prior." (Decision, Legal Analysis, § VI.8) Without any further explanation why parking lot resurfacing qualifies as a capital improvement for purposes of the CSFRA, or reference to evidence in the record, Appellant-Landlord's appeal element regarding parking lot resurfacing expenses is denied and the Decision After Remand excluding the cost of resurfacing from capital improvement costs is **affirmed**.

The Decision After Remand references four invoices (Nos. 44109, 44123, 44467, and 44468) from the Trans Bay Elevator Corp for which check run reports indicate payments were made by Appellant-Landlord in February and April 2015. The Decision After Remand excludes elevator expenses from amortized capital improvements because: (a) invoices and check run reports were submitted but there were no "elevator permits, inspection documents, proposal documents or otherwise" that described the work done and for what purpose; (b) the elevator operation was "nonfunctional" after the work and despite other maintenance costs; and (c) Appellant-Landlord "failed to provide any part lists, laborer hours, or any discussions of the work actually performed in support of this claimed expense." (Decision, Legal Analysis, § VI.8)

While the arguments provided in the Decision After Remand are relevant, it strains credulity to argue an elevator modernization project does not fulfill the obligation that capital improvements are necessary for compliance with local health and safety codes. City Code section 25.58 specifically addresses elevator condition (subsection "cc") as well as safe egress and ingress (subsections "s" through "u"). Each invoice referenced above states that the modernization project included "Controller/HPU replacement." This information is adequate to conclude that such an expense would qualify as an expense necessary to address the operational condition of the elevator. Respondent-Tenants' apparent dissatisfaction with the nonfunctional condition of the elevator is understandable, but a capital expense meant to address such concern is not productive. As the record is devoid of any allegation or argument regarding malfeasance or fraud related to the elevator expense, Appellant-Landlord's request to reverse the exclusion of elevator costs from capital expenses in the Decision After Remand is granted and the Decision After Remand is **reversed/modified** to reflect the "Revised" column of the table below.

Table __ Capital Improvement Costs

	Item	**Total Cost** ($)	**Amort.** (Yrs.)	**Annual Cost** ($)	**Revised** ($)
Base Year	Pavers	49,250.00	10	4,925.00	---
	Roof	114,952.00	10	11,495.20	11,495.20
	Elevator	42,363.69	20	2,118.18	2,118.18
				18,538.38	**13,613.38**
Petition	**Item**	**Total Cost**	**Amort.**	**Annual Cost**	**Revised** ($)

Year		($)	(Yrs.)	($)	
	Resurface Parking Lot	49,250.00	10	4,925.00	---
	Base Year Amort. Exp.	157,315.69	10 / 20	13,613.38	13,613.38
				18,538.38	**13,613.38**

9. $1,100 Payment to P.W. Stephens

Appellant-Landlord "agrees that [the $1,100 payment to P.W. Stephens] should not be counted twice, but it should be counted once." The Decision After Remand asserts that the identified expense was counted once. Without further explanation of the appeal element or where the omission potentially occurred, Appellant-Landlord's appeal element is granted and the Decision After Remand accounting for the identified payment is **affirmed**.

10. Equal Allocation of Rent Increases Among All Units

The Decision After Remand concludes that Appellant-Landlord is entitled to an upward adjustment of rents pursuant to the fair rate of return methodology as defined in Regulation Chapter 6. The Decision After Remand allocates the rent increase among all 104 units in Property.

The initial Decision cited the general rules found in Regulations Chapter 6, Sections J (which have since been revised), and stated "since Landlord admits that it does not charge expenses to any specific unit, but charges expenses across all of them, the same should apply to any rent increases under the Act" (citing Appellant-Landlord submission on worksheet 6 of the Petition).

The Decision After Remand notes that Appellant-Tenant requests rent increases for only 56 Subject Units in "arbitrary amounts ranging from $115 to $445" per month. The Decision After Remand references precatory language in the CSFRA and concludes that rent increases should be equally allocated among all units in the Property.

The maintenance of net operating income methodology adopted by the RHC to ensure landlords can earn a fair rate of return, codified in Regulation Chapter 6, Sections B and C, defines net operating income as the income from "one property." To calculate a property-wide net operating income and then maintain its value by increasing property-wide net operating income in accordance with the CPI but then place the burden of resulting rent increases on only a portion of the units in a property would conflict with the purpose and intent of the CSFRA. Recent regulations provide additional guidance to hearing officers regarding proper allocation of rent increases among units in a property. Should Appellant-Landlord wish to receive the benefit of the new regulation, Appellant-Landlord can withdraw and resubmit a new Petition to cover the Subject Units, or submit a new Petition related to other or all units on the Property.

As the Decision After Remand indicates, "apportion[ing] the upward adjustment in inconsistent, excessive amounts to only certain tenants – rather than applying a modest increase to all units in the Property clearly conflicts with the [CSFRA's] purpose of promoting affordable rents 'to the greatest extent allowable under California law.'" (Decision After Remand, Legal Analysis, § IV.12, citing CSFRA § 1700.) Accordingly, Appellant-Landlord's request to apply increases

only to Subject Units and the request for unequal allocation of increases among Subject Units is denied and the allocation methodology in the Decision After Remand is **affirmed**.

B. Respondent-Tenants Appeal Elements

In addition to the enumerated appeal elements discussed below, Respondent-Tenants claim that Appellant-Landlord has imposed rent increases effective December 1, 2018 and requests such increases be acknowledged in any upward adjustment authorized pursuant to the Petition. While the Second Tentative Appeal Decision is based solely on evidence currently in the record and does not purport to accept new evidence, CSFRA section 1707(b) expressly precludes more than one rent increase be imposed in any twelve-month period, and governs this Second Tentative Appeal Decision.

1. Calculation of Petition Year Ordinary Repair, Replacement, and Maintenance Costs

Respondent-Tenants appeals the calculation of petition year ordinary repair, replacement, and maintenance costs. Respondent-Tenants argue that the Hearing Officer's exclusion of $190,669.25 lacks support.

For the petition year, Petition worksheet 3 lists ordinary repair, replacement, and maintenance costs as totaling $358,811.13. That sum is broken into thirteen categories in worksheet 3.1B, including line item 12, which is identified as "Salaries" benefitting all units totaling $215,505.92. The detailed description of line item 12 in worksheet 3.1B lists six entries and is reproduced below.

Table __ Detail Description of "Salaries" Line Item from Worksheet 3.1B

Description	**Date**	**Amount** ($)
Check 2232	12/30/16	10,000.00
Check 2378	5/31/17	13,589.00
Check 2510	10/27/17	896.37
Check 2513	10/27/17	332.40
Check 2515	10/27/17	18.90
"Employee Compensation – General Ledger Entries"	Undated	190,669.25
	Subtotal	**215,505.92**

The Decision After Remand again concludes that $190,669.25, the "Employee Compensation – General Ledger Entries," shall be excluded from ordinary repair, replacement, and maintenance costs in the petition year. Contrary to the Respondent-Tenants assertion, evidence supports the conclusion that the aggregated, "Employee Compensation – General Ledger Entries" line item in the detailed description should be excluded from ordinary repair, replacement, and maintenance costs. The conclusion in the Decision After Remand that aggregated payments totaling $190,669.25 are excluded while specific checks are included appears reasonable and is supported by substantial evidence in the record, as copies of each check are included in evidence and purportedly pay for health and life insurance cost, as well as salaries to specified parties.

Accordingly, Respondent-Tenants appeal element is denied and the Decision After Remand excluding undated employee compensation from the salaries line item of ordinary repair, replacement, and maintenance costs in the petition year is **affirmed**.

2. Calculation of Petition Year Business License Fees

Respondent-Tenants assert that the Decision After Remand miscalculates petition year business license fees by including a previously excluded expense: $239.80 for Go Daddy charges. These charges were not subject of the initial appeal regarding the Petition and therefore were not subject to remand or revision in the Decision After Remand. Accordingly, Respondent-Tenants appeal element is granted and the apparent math error in the Decision After Remand is **modified** to exclude the $239.80 charge from petition year business license fees.

3. Calculation of Base and Petition Year Costs for Ordinary Repair, Replacement, and Maintenance

Respondent-Tenants further appeal the calculation of ordinary repair, replacement, and maintenance costs in the base year and petition year, claiming the Decision After Remand fails to account for costs that were purportedly reimbursable (*see* Regulation Chapter 6, Section E.2.d). As discussed in section IV.A.5 of this Second Tentative Appeal Decision, Respondent-Tenants submitted spreadsheets scrutinizing line-item-level costs, including costs for which Appellant-Landlord may have potentially been able to seek reimbursement (*see* Exhibit D to the Decision After Remand). Appellant-Landlord responded to these allegations in Exhibit E to the Decision After Remand.

Respondent-Tenants identify $2,130 and $2,320 worth of cleaning expenses and $14,199.75 and $46,211.83 in itemized turnover expenses in the base year and petition year, respectively. It appears Respondent-Tenants conclude that all cleaning and turnover costs when a tenant vacates a unit should be withheld from the vacating tenant's security deposit. Appellant-Landlord asserts that "Only excessive damage [costs are] collected [from security] deposits." Appellant-Landlord further asserts, "Credit checks for people who rent are not charged for credit checks. Only those who don't qualify are charged for the credit check."

The use of security deposits by landlords is regulated by state law. Civil Code section 1950.5 regulates the reasons for which a Landlord may withhold all or a portion of a tenant's security deposit, including defaults on rent, repair of damages (exclusive of ordinary wear and tear) and cleaning of premises to return unit to the same level of cleanliness the unit was found at the inception of the tenancy. Likewise, the Civil Code authorizes landlords to charge potential tenants "an application screening fee to cover the costs of obtaining information about the applicant," including credit reports. (Civ. § 1950.6.)

Uncontested evidence in the record identifies cleaning fees and costs of credit checks in the base year of $2,130 and $262.80 (*see* Exhibits D and E to the Decision After Remand). Uncontested evidence in the record identifies petition year cleaning fees and costs of credit checks totaling $2,320 and $109.50, respectively (*see* Exhibits D and E to the Decision After Remand). Because these costs may be passed through directly to potential and/or vacating tenants, the costs

identified above cannot be included as ordinary repair, replacement, and maintenance costs for purposes of the maintenance of net operating income calculation. However, additional turnover costs identified by Respondent-Tenants and discussed by Appellant-Landlord do not appear to fall within the statutory authorization for reimbursement by potential and/or vacating tenants, as Appellant-Landlord claims a regular practice of withholding from security deposits the costs for excessive damage. Therefore, Respondent-Tenants appeal element is granted in part and denied in part; the Decision After Remand is **modified** to reduce base year ordinary repair, replacement, and maintenance costs by $2,392.80 and to reduce petition year ordinary repair, replacement, and maintenance costs by $2,429.50, such that base and petition year ordinary repair, replacement, and maintenance costs equal $150,657.69 and $165,712.38, respectively.

V. Conclusion

As detailed above, the RHC grants in part and denies in part Appellant-Landlord's appeal of the Decision. The RHC grants in part and denies in part the Respondent-Tenants' appeal of the Decision, as summarized below.

A.1 Appellant-Landlord's request regarding the Vega Adjustment is denied in part and granted in part. The Decision After Remand is **modified** to grant a Vega Adjustment for twenty-two Subject Units for which average rents received in the base year were less than HUD Rents pursuant to Regulation Chapter 6, Section G in effect when the Petition was submitted, as reflected in the Maintenance of Net Operating Income Calculation Exhibit to this Second Tentative Appeal Decision.

A.2 Appellant-Landlord's request regarding revisions to adjusted gross income in the base and petition years is denied. The calculations of adjusted gross income in the Decision After Remand is **affirmed**, except to the extent modified pursuant to appeal element A.1.

A.3 Appellant-Landlord's request to include as operating expenses payments to the California Apartment Association is denied. The calculation of petition year business license fees in the Decision After Remand is **affirmed**, except to the extent modified pursuant to appeal element B.2.

A.4 Appellant-Landlord's request regarding revisions to the calculation of base year and petition year management expenses is denied. Calculation of base year and petition year management expenses in the Decision After Remand is **affirmed**.

A.5 Appellant-Landlord's request regarding the categorization of salaries is denied. Calculation of management expenses and ordinary repair, replacement, and maintenance costs is **affirmed**, except to the extent modified pursuant to appeal element B.3.

A.6 Appellant-Landlord's request to revise petition year and base year operating expenses is denied, and the methodology for calculations used in the Decision After Remand is **affirmed**.

A.7 Appellant-Landlord's request to include paver costs as capital improvements is denied and the exclusion of such costs in the Decision After Remand is **affirmed**.

A.8 Appellant-Landlord's request to include parking lot resurfacing and elevator costs is denied in part and granted in part. Exclusion of parking lot resurfacing costs in the Decision After Remand is **affirmed**. The Decision After Remand is **modified** to include elevator expenses as amortized capital improvements, as reflected in the Maintenance of Net Operating Income Calculation Exhibit to this Second Tentative Appeal Decision.

A.9 Appellant-Landlord's request regarding payment to P.W. Stephens for environmental services is granted and the accounting of this payment in the Decision After Remand is **affirmed**.

A.10 Appellant-Landlord's request to unequally allocate rent increases to Subject Units is denied. The methodology to allocate the upward adjustments of rent equally among units in the Property as described in the Decision After Remand is **affirmed**, as reflected in the Maintenance of Net Operating Income Calculation Exhibit to this Second Tentative Appeal Decision.

B.1 Respondent-Tenants' request to revise the exclusion of salaries from petition year ordinary repair, replacement, and maintenance costs is denied. The calculation of ordinary repair, replacement, and maintenance costs in Decision After Remand is **affirmed**, except to the extent modified pursuant to appeal element B.3.

B.2 Respondent-Tenants' request to revise petition year business license fees is granted. The $239.80 fee that was not subject to revision is excluded and Decision After Remand is **modified** as reflected in the Maintenance of Net Operating Income Calculation Exhibit to this Second Tentative Appeal Decision.

B.3 Respondent-Tenant's request to revise ordinary repair, replacement, and maintenance costs in the base year and petition year is granted in part and denied in part. The calculation of ordinary repair, replacement, and maintenance costs in the Decision After Remand is **modified** to exclude cleaning costs and tenant screening fees that are reimbursable pursuant to California Civil Code sections 1950.5 and 1950.6, as reflected in the Maintenance of Net Operating Income Calculation Exhibit to this Second Tentative Appeal Decision.

The Maintenance of Net Operating Income Calculation Exhibit to this Second Tentative Appeal Decision authorizes a rent increase of up to $20.21 per month for each Subject Unit. Any rent increase imposed pursuant to this Second Tentative Appeal Decision and as reflected in the Maintenance of Net Operating Income Calculation Exhibit may only be applied to Subject Units and each increase must comply with state-mandated noticing requirements and cannot be effective within twelve-months of the most recent rent increase applicable to the Subject Unit pursuant to CSFRA section 1707(b).

Exhibit

to Second Tentative Appeal Decision re: Petition #17180002

MNOI Fair Return Calculation - 141 Del Medio

COMPARISON: Decision After Remand and Second Tentative Appeal Decision

		Base Year		Petition Year		References and Annotations
		Decision After Remand	*2d Tentative Appeal Decision*	*Decision After Remand*	*2d Tentative Appeal Decision*	
Units on Property	104					
CPI	14%	**371.072**		**421.94**		
Gross Income						
Rent Collected (WS 2, Line 1.a.1)		*1,636,315.00*	*1,636,315.00*	*1,834,722.14*	*1,834,722.14*	
Vega Adjusted Rent (WS 2, Line 1.a.2)			*15,979.00*			*See Appeal Element A.1*
Imputed Rental Value - Ppty Mgr occupied Unit (WS 2, Line 1.b.)		*18,000.00*	*18,000.00*	*19,800.00*	*19,800.00*	
Laundry Income (WS 2, Line 1.c.)		*8,664.00*	*8,664.00*	*9,234.00*	*9,234.00*	
Interest from Sec. Dep. (WS 2, Line 1.d.)						
Adjusted Gross Income (WS 2, Line 5)		***1,662,979.00***	***1,678,958.00***	***1,863,756.14***	***1,863,756.14***	***Change resulted from modification noted above***
Less Allowable Operating Expenses						
1. Rental Housing Fees		-				
2. Business License Fees		*3,588.79*	*3,588.79*	*11,661.82*	*11,422.02*	*See Appeal Element B.2*
3. Real Property Taxes		*36,387.16*	*36,387.16*	*37,008.88*	*37,008.88*	
4. Utility Costs		*128,463.67*	*128,463.67*	*155,103.23*	*155,103.23*	
5. Insurance		*28,364.89*	*28,364.89*	*21,005.43*	*21,005.43*	
6. Reas. Costs for Ord. Repair (WS 3.1A, 3.1B)		*153,050.49*	*150,657.69*	*168,141.88*	*165,712.38*	*See Appeal Element B.3*
7. Reasonable Mgmt. (WS 3.2)		*99,778.74*	*99,778.74*	*111,825.37*	*111,825.37*	
8. Reas. Cap. Imprv. Amortized (WS 3.3)		*11,495.20*	*13,613.38*	*11,495.20*	*13,613.38*	*See Appeal Element A.8*
9. Allowable Attys fees				-		
10. Owner Performed Labor (WS 3.4)						
11. Other Op. Exp. (WS 3.5)		*58,922.73*	*58,922.73*	*51,819.10*	*51,819.10*	
Total Operating Expenses (WS 2, Line 12)		***520,051.67***	***519,777.05***	***568,060.91***	***567,509.79***	***Changes resulted from modifications noted above***
Consideration for unusually high or low expenses (WS 3.6)						
Net Operating Income (WS 4, Line 3)		***1,142,927.33***	***1,159,180.95***	***1,295,695.23***	***1,296,246.35***	
NOI Adjustment = 100% of CPI Increase (428.26/371.075)-1 (WS 5, Line 2)		**14.0%**	**14.0%**	**14.0%**	**14.0%**	***Changes resulted from modifications noted above***
Petition Year NOI (WS 5, Line 1)				*1,295,695.23*	*1,296,246.35*	
Adjusted Base Year NOI Entitlement = Base Year NOI (w Vega Adjustment) x 1.14 (WS 5, Line 3)				*(1,302,937.16)*	*1,321,466.28*	
MNOI Adjustment (Entitlement - Current NOI) (WS 5, Line 4)				***(7,241.92)***	***(25,219.93)***	
NOI Adjustment/Unit/Month (WS 5, Line 6)				***(5.80)***	***(20.21)***	***The changes described in the Second Tentative Appeal Decision authorize a $20.21 per month rent increase for each Subject Unit.***

Yellow background cells highlight changes between the Decision After Remand and the Second Tentative Appeal Decision. Highlighted cells are either directly modified by the Second Tentative Appeal Decision (e.g. granting a Vega Adjustment in the Base Year column), or indirect changes that necessarily follow the direct modification of specific line items (e.g. Base Year Adjusted Gross Income is only changed based on the granting of a Vega Adjustment).