

CITY OF MOUNTAIN VIEW RENTAL HOUSING COMMITTEE
HEARING OFFICER DECISION PURSUANT TO
THE COMMUNITY STABILIZATION AND FAIR RENT ACT (“CSFRA”)

RHC Case #(s):	C23240026 (Petition C for Tenant Hardship)
Address and Unit(s) of Rental Property:	511 Central Ave. Unit ■, Mountain View, CA 94043
Petitioner Tenant Name(s):	Rondeline Williams
Respondent Landlord Name(s):	Shoreline Village LLC rep. by Steve Welter
Property Manager Name:	n/a
Date(s) of Hearing:	November 29, 2023
Place of Hearing:	Online via Zoom
Date Hearing Record Closed:	December 12, 2023
Date of Decision:	January 11, 2024
Date of Mailing:	See attached Proof of Service
Hearing Officer:	E. Alexandra DeLateur

I. STATEMENT OF THE CASE *[Procedural history of the case]*

1. The petition in the above case (the “Petition”) was filed by Rondeline Williams (“Petitioner”) on or about October 9, 2023 and was accepted by the City on or about October 23, 2023.
2. Respondent /Landlord filed a response on or about November 20, 2023.
3. A Notice of Hearing on Petition was served on November 3, 2023, setting a Hearing scheduled on November 29, 2023 with a Prehearing Conference on November 15, 2023.
4. A Prehearing Order was issued dated November 16, 2023.
5. The matter was heard as scheduled on November 29, 2023 and the Hearing Officer issued a Post-hearing Order holding the record open at the conclusion of the hearing until the close of business on December 12, 2023 for submission of additional evidence.

II. PARTIES WHO ATTENDED THE HEARING

The following parties attended the Hearing:

Petitioner(s): Rondeline Williams (“Tenant” or “Petitioner”)

Respondent(s): Steve Welter (“Landlord” or “Respondent”) for Shoreline Village LLC

Joann Pham, Analyst I, Rent Stabilization Division, City of Mountain View

Patricia Black, Senior Management Analyst, Rent Stabilization Division, City of Mountain View

III. WITNESSES

Both Ms. Williams and Mr. Welter presented testimony and evidence at the hearing. No other witnesses appeared.

IV. SUMMARY OF THE EVIDENCE

Petitioner filed this Petition for relief from the 5% banked rent increase included in a Notice of Rent Increase dated August 29, 2023 which proposed a 10% increase in rent from \$1,444.58 to \$1,588.50 effective December 1, 2023. Petitioner seeks relief on the basis of a “tenant hardship” due to her level of income.

Respondent argued at the commencement of the hearing that the Petition should be dismissed due to an essential error regarding the initial rent or base rent. That argument was denied, and the hearing went forward. The hearing officer determined that the “initial rent” in the Lease and the “base rent” as defined in the CSFRA are two different numbers and Petitioner had presented both in her Petition so as to present a full and truthful picture of the situation; therefore, there was no misstatement presented.

The Lease commencing May 1, 2021 called for monthly rent of \$1,545.00 with a “move-in special” of free rent for the second month (June 2021). A prior Petition between these same parties resulted in a decision, upheld on appeal (No. 21220016), that the Base Rent for this tenant in this unit is \$1,416.25 as of December 20, 2022 and that any rent increases based on improper calculations of Base Rent prior to that decision were void. The appeal decision became final, and the parties are bound by it.

The Petitioner submitted evidence that she lives in a household of one person and her gross income is about \$58,500 per year. She produced statements showing the amounts of her grants and testified that she receives no other income not disclosed in the Petition.

It is uncontested that Petitioner paid \$1,444.58 for each month from December 2022 through September 2023 and the increased monthly rent of \$1,588.50 for October through December 2023. This is based on testimony of Petitioner and also the Transaction Ledger provided by Respondent.

The Transaction Ledger indicates for each month from December 2022 through September 2023, “2% on ‘Base Rent’ (11/12 *1545 = \$1,416.25) *1.02= 1,444.58-Thank you Mt View [.]”

Respondent testified that he had not served Petitioner with a Rent Increase Notice since the appeal decision, except for the August 29th Notice at issue to raise the rent to \$1,588.50 effective October 1, 2023.

In response to the Post-hearing Order, the Petitioner provided copies of several notices of rent increase, some predating the appeal decision but also one Notice of an 8% increase dated August 23, 2023 which did not include all the required CSFRA verbiage and which, presumably, was replaced by the Notice dated August 29, 2023. The Respondent did not provide any notices of rent increase and, therefore, the hearing officer must assume that the evidence presented by the Petitioner is complete.

A list of exhibits is attached as Attachment 1 and incorporated herein. There being no objections to the evidence presented by parties, all evidence that was offered was admitted into the record.

ISSUES PRESENTED

- A. Did Petitioner receive a proper notice of rent of increase which included a “banked” rent increase amount as defined in the CSFRA Sec. 1707(d)?
- B. Would the imposition of such a “banked” rent increase amount present an undue hardship to the Petitioner under the CSFRA Sec. 1707(d) and Chapter 7, Section C of the Regulations promulgated thereunder? *[Check all that apply]*

Undue Hardship Condition	
<input checked="" type="checkbox"/>	<p>1. <u>Inadequate Household Income</u>. <i>Reg. Chap. 7(C)(2)(a)</i></p> <p><input checked="" type="checkbox"/> Whether the household income of Petitioner does not exceed one hundred percent (100%) of the median household income for Santa Clara County as adjusted for household size according to the California Department of Housing and Community Development and thus a hardship is presumed;</p> <p style="text-align: center;"><u>or</u></p> <p><input type="checkbox"/> Whether more than fifty percent (50%) of Petitioner’s household income is spent on rent and thus a hardship is presumed.</p>
<input type="checkbox"/>	<p>2. <u>Families with Children</u>. <i>Reg. Chap. 7(C)(2)(b)</i></p> <p><input type="checkbox"/> The Petitioner’s household is the primary residence of one (1) or more dependent children under the age of eighteen (18); <u>and</u></p>

Undue Hardship Condition	
	<input type="checkbox"/> Whether the household income of Petitioner does not exceed one hundred and twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the California Department of Housing and Community Development and thus a hardship is presumed; <u>or</u> <input type="checkbox"/> Whether more than fifty percent (50%) of Petitioner's household income is spent on rent and thus a hardship is presumed.
<input type="checkbox"/>	3. <u>Senior Household.</u> <i>Reg. Chap. 7(C)(2)(c)</i> <input type="checkbox"/> The Petitioner's household is the primary residence for one (1) or more persons who are at least sixty-two (62) years of age; <u>and</u> <input type="checkbox"/> Whether the household income of Petitioner does not exceed one hundred and twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the California Department of Housing and Community Development and thus a hardship is presumed; <u>or</u> <input type="checkbox"/> Whether more than fifty percent (50%) of Petitioner's household income is spent on rent and thus a hardship is presumed.
<input type="checkbox"/>	4. <u>Persons with Disabilities.</u> <i>Reg. Chap. 7(C)(2)(d)</i> <input type="checkbox"/> The Petitioner's household is the primary residence of one (1) or more persons with a disability, as defined in Section 12955.3 of the Government Code; <u>and</u> <input type="checkbox"/> Whether the household income of Petitioner does not exceed one hundred and twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the California Department of Housing and Community Development and thus a hardship is presumed; <u>or</u> <input type="checkbox"/> Whether more than fifty percent (50%) of Petitioner's household income is spent on rent and thus a hardship is presumed.
<input type="checkbox"/>	5. <u>Persons who are Terminally Ill.</u> <i>Reg. Chap. 7(C)(2)(e)</i> <input type="checkbox"/> The Petitioner's household is the primary residence of one (1) or more persons who are terminally ill, as confirmed in writing by the individual's licensed medical care provider; <u>and</u>

Undue Hardship Condition	
	<input type="checkbox"/> Whether the household income of Petitioner does not exceed one hundred and twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the California Department of Housing and Community Development and thus a hardship is presumed; <u>or</u> <input type="checkbox"/> Whether more than fifty percent (50%) of Petitioner’s household income is spent on rent and thus a hardship is presumed.
<input type="checkbox"/>	6. <u>Other Hardship.</u> <i>Reg. Chap. 7(C)(2)(f)</i> <input type="checkbox"/> Whether the household income of Petitioner does not exceed one hundred and twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the California Department of Housing and Community Development; <u>and</u> <input type="checkbox"/> Which household does not qualify under the definitions of hardship included in Subsections (C)(2)(a) through (C)(2)(e) of Chapter 7 of the Regulations; <u>and</u>
<input type="checkbox"/>	<input type="checkbox"/> Which household demonstrates other extenuating circumstances may request such circumstances be considered hardship for purposes of Subsection (C)(6) of Chapter 7 of the Regulations.

V. FINDINGS OF FACT SUPPORTING THIS DECISION

1. Petitioner has resided in the subject unit as their primary residence for at least 12 months.
2. The appeal decision determined that the proper calculation of Base Rent pursuant to the CSFRA Regulations for the lease between Petitioner and Respondent commencing May 1, 2021 which includes a concession in month two is \$1,416.25.
3. Respondent charged Petitioner monthly rent from December 2022 through September 2023 in the amount of \$1,444.58, which Petitioner paid.
4. There is no evidence in the record that there was a written Notice of Rent Increase for this Unit between December 20, 2022 and the Notices dated August 2023 with the effective date of October 1, 2023.
5. As of October 1, 2023, Respondent sought to raise Petitioner’s rent from \$1,444.58 to \$1,588.50 which includes the AGA for 2023 of 5% and banked AGA for 2022 of 5%.
6. The Notice of Rent Increase dated August 29, 2023 included the mandatory CSFRA attachment and notices for a rent increase that includes a banked increase.
7. Petitioner filed their Petition under the CSFRA for relief on October 9, 2023, within ten (10) days of the effective date of the Rent Increase Notice.

8. Petitioner paid the proposed increased rent of \$1,588.50 for the months of October, November, and December 2023.
9. The Annual General Adjustment (AGA) for 2023 is 5%.
10. The Annual General Adjustment (AGA) for 2022 is 5%.
11. The Annual General Adjustment (AGA) for 2021 is 2%.
12. Petitioner's household is comprised of one (1) adult residing in the subject unit.
13. Petitioner's total gross income for the last twelve months is less than \$126,900, which is 100% the applicable Annual Area Median Income (AMI) for a household of one (1) in Santa Clara County.

VI. LEGAL AUTHORITY

CSFRA Chapter 7 regulates banked rent increases, which are increases for past years which a landlord did not impose at the time but may be "banked" for implementation in a later year and added to the current AGA as long as the total amount of the increase does not exceed 10% of the current rent. *CSFRA Sec. 1707(d) and (e)*. A landlord must include specific language in a notice that includes a banked rent increase. *CSFRA Regs. Chapt. 7(B)*. The tenant must be notified of the right to request relief from a banked rent increase by way of a petition if the proposed increase would create an undue hardship on the tenant. There are multiple bases for a tenant to make the case that an undue hardship exists. *CSFRA Regs. Chapt. 7(C)(2)*. Chapt. 7(C)(1)(c) provides that "no relief can be granted to a hardship petition unless it is supported by the preponderance of the evidence supporting the claimed hardship."

"Hardship Conditions Defined. Any Tenant household claiming a hardship must verifiably demonstrate that one (1) or more of the following conditions [a, b, c, d, e, or f] (*text added*) apply to either one (1) or more Tenants in the household, or to the household generally (as specified below). For purposes of defining a hardship, household income means the gross income received in the previous twelve (12) months from all household members over age eighteen (18)." *CSFRA Regs. Chapt. 7(C)(2)*.

"Relief from Hardship. Upon demonstrating the existence of one (1) or more hardship conditions identified in subsection (C)(2), a Hearing Officer shall consider the Tenant household's hardship condition as one (1) factor when determining whether and to what extent any of the potential relief identified by this Subsection (C)(6) is appropriate. Any relief granted under this Subsection (C)(6) must be documented by the Decision of a Hearing Officer granting an adequately supported Tenant hardship Petition. No relief granted under this Subsection (C)(6) shall be applied so as to deprive a Landlord from the ability to earn a fair return." *CSFRA Regs. Chapt. 7(C)(6)*.

VII. DISCUSSION

The Petitioner seeks relief from the banked AGA for 2022 because they have limited income as set forth in Chapt. 7(C)(2)(a) of the Regulations. Their Petition was filed within the period required by the CSFRA.

Petitioner proved by a preponderance of the evidence that their gross income from all sources for the requisite period falls below one hundred percent (100%) of the applicable median household income for Santa Clara County as adjusted for household size of one (1) according to the California Department of Housing and Community Development (\$126,900.00). Therefore, there is a presumption that Petitioner qualifies for relief from the banked 2022 AGA of 5% under the CSFRA Sec. 1707(d) and Chapter 7(C) of the Regulations.

Based on the evidence presented, Petitioner is entitled to relief in the form of a rent increase of only 5% rather than 10% which includes the banked increase. However, the evidence also presented an additional problem with calculating the appropriate rent in this case. Since there was no evidence presented of how the rent increased from the Base Rent of \$1,416.25 that was determined in the December 2022 appeal decision to \$1,444.50 (the rent that Petitioner was paying from December 2022 through September 2023), that increase was not valid. The Transaction Ledger entries that reference a 2% increase are insufficient to meet the CSFRA noticing requirements. The proper rent remained \$1,416.25 for that period. Therefore, the allowed 2023 AGA of 5% cannot be based on \$1,444.50 but must be based on \$1,416.25.¹ Five percent of \$1,416.25 is \$70.80. Therefore, as of October 1, 2023, the proper rent for this unit is \$1,487.06 and any overpayments for December 2022 through December 2023 must be refunded to the Petitioner, along with any overpayments for additional subsequent months until the Respondent adjusts the rent in accordance with this decision.

VIII. DECISION

1. Based on the evidence presented, the Petitioner has met their burden to show an undue hardship would result if the banked rent increase were implemented this year. They are entitled to relief from the Respondent's request for the banked 2022 AGA of 5%. Therefore, pursuant to the CSFRA Section 1707(d), the Respondent may not implement the requested banked increases but may implement the correctly calculated 2023 AGA of 5% for allowable, lawful monthly rent of \$1,487.06 beginning October 1, 2023 and continuing thereafter until there is a lawful change in rent.

¹ Although the hearing officer submits that the entire Notice of Rent Increase dated August 29, 2023 could be invalidated, this decision takes the position that the hearing officer has discretion to correct and allow the 2023 AGA as recalculated.

2. The evidence is clear that Petitioner has paid rent in the amount of \$1,444.50 for the period December 2022 through September 2023 which was an incorrect rent amount. They are entitled to a credit of \$28.25 for each of those 10 months.
3. Furthermore, Petitioner has also overpaid rent for October 2023 through December 2023, so they are entitled to a credit for \$101.44 for each of those months, as well as any overpayments for January 2024 and subsequent months until the Respondent adjusts the rent to comply with this decision. (See Attachment 2: Decision Award Spreadsheet).
4. Respondent is ordered to issue an appropriate credit to Petitioner based on this decision within thirty (30) days of this decision being final.
5. If a dispute arises as to whether any party has failed to comply with this Decision, any party may request a Compliance Hearing pursuant to CSFRA Regulations, Ch. 5, Section J(1).

IT IS SO ORDERED.

/s/ E. Alexandra DeLateur
E. Alexandra DeLateur, Hearing Officer

Dated: January 11, 2024

ATTACHMENT 1

LIST OF DOCUMENTARY EVIDENCE

Exhibit 1—Petitioner’s Petition C: Tenant Hardship and supporting documentation, including income information for the last twelve months

Exhibit 2—Notice of Acceptance of the Petition

Exhibit 3—Representative Authorization Form appointing Steve Welter as representative for Shoreline Village LLC

Exhibit 4—Notice of Prehearing Meeting and Hearing Date under the CSFRA dated November 3, 2023 setting the case for hearing on November 16, 2022

Exhibit 5—Prehearing Summary and Order dated November 15, 2023

Exhibit 6—Landlord’s Response to the Petition dated November 20, 2023 and attached Lease commencing May 1, 2021

Exhibit 7— Notice of Rent Increase dated March 25, 2022 seeking to increase rent from \$1,545.50 to \$1,575 effective May 1, 2022

Exhibit 8—Notice of Rent Increase dated July 28, 2022 seeking to increase rent from \$1,545.50 to \$1,615.81 effective September 1, 2022

Exhibit 9—Notice of Rent Increase dated Notice of Rent Increase dated August 23, 2023 seeking to increase rent from \$1,444.50 to \$1,559.50 (8%) effective October 1, 2023

Exhibit 10—Notice of Rent Increase dated August 29, 2023 seeking to increase rent from \$1,444.50 to \$1,588.50 effective October 1, 2023

Exhibit 11—Copy of the Respondent’s Transaction Ledger from December 1,2022 through December 8, 2023

Exhibit 12—Information regarding building code, fire, and safety violations at the property without any outstanding issues

Exhibit 13— Appeal Decision for case 21220016 dated December 20, 2022

**Attachment 2
Award Schedule**

511 Central Ave Apt [REDACTED] - RHC Petition# C23240026

Hearing Officer Decision

Month/Year of Rent Payment	Actual Rent Paid	Lawful Rent	Payments in Excess by Petitioner
12/2022	\$ 1,444.50	\$ 1,416.25	\$ 28.25
1/2023	\$ 1,444.50	\$ 1,416.25	\$ 28.25
2/2023	\$ 1,444.50	\$ 1,416.25	\$ 28.25
3/2023	\$ 1,444.50	\$ 1,416.25	\$ 28.25
4/2023	\$ 1,444.50	\$ 1,416.25	\$ 28.25
5/2023	\$ 1,444.50	\$ 1,416.25	\$ 28.25
6/2023	\$ 1,444.50	\$ 1,416.25	\$ 28.25
7/2023	\$ 1,444.50	\$ 1,416.25	\$ 28.25
8/2023	\$ 1,444.50	\$ 1,416.25	\$ 28.25
9/2023	\$ 1,444.50	\$ 1,416.25	\$ 28.25
10/2023	\$ 1,588.50	\$ 1,487.06	\$ 101.44
11/2023	\$ 1,588.50	\$ 1,487.06	\$ 101.44
12/2023	\$ 1,588.50	\$ 1,487.06	\$ 101.44
1/2024	TBD	\$ 1,487.06	TBD
TOTAL			\$ 586.82

Credit Schedule

Month/Year of Rent Payment	Monthly Rent Owed (Base Rent)	Rent Credited to Petitioner	Total Payment to be Paid by Petitioner
2/2024*	\$ 1,487.06	\$ 586.82	\$ 900.24
TOTAL		\$ 586.82	

* If the Decision becomes final after February 2024, the credit must be issued by the next full month after the Decision becomes final.