

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

<b>Rental Housing Committee Case No.:</b>	C23240025
<b>Address and Unit(s) of Rental Property:</b>	507 Central Avenue, Unit ■, Mountain View, CA 94043
<b>Petitioner Tenant Name(s):</b>	Shichao Wang
<b>Respondent Landlord Name(s):</b>	Agate Bay, LLC
<b>Date(s) of Hearing:</b>	May 30, 2024
<b>Place of Hearing:</b>	Online via Zoom
<b>Date Hearing Record Closed:</b>	July 1, 2024
<b>Date of Decision:</b>	September 23, 2024
<b>Date of Mailing:</b>	See attached Proof of Service.
<b>Hearing Officer:</b>	Barbara M. Anscher

**I. PROCEDURAL HISTORY**

1. On October 23, 2023, Petitioner Shichao Wang (“Petitioner,” “Tenant,” or “Mr. Wang”) filed with the City of Mountain View Rent Stabilization Division (the “City” or “City Rent Stabilization Division”) a Petition for a downward rent adjustment, specifically Petition B: Failure to Maintain Habitable Premises or Decrease in Housing Services or Maintenance as Defined by the CSFRA (the “Original Petition”), for 507 Central Avenue, Unit ■ (the “Affected Unit”).
2. On November 7, 2023, Petitioner filed an amended Petition (the “Petition”).
3. On November 22, 2023, the City served on the parties a Notice of Acceptance of Petition.
4. Also on November 22, 2023, the City served on Respondent a Follow-up Information for Petition, with attached filed copies of the Petition, Workbooks, and Notice of Submission and Proof of Service, Hearing Information Sheet, Response Notice, and Authorized Representative Form.
5. On December 20, 2023, the City served a Notice of Prehearing Meeting on the parties, setting a Prehearing Meeting date for February 7, 2024 at 1:00 p.m. and a tentative Hearing

date of February 26, 2024 at 1:00 p.m. Attached to the Notice were a Hearing Information Sheet and Proof of Service.

6. On January 11, 2024, Respondent filed a Petition Response Notice with supporting documents.
7. A Prehearing Meeting was held by videoconference on February 7, 2024 at 1:00 p.m., as duly noticed. At the Prehearing Meeting, the Hearing Officer explained hearing procedure and the burden of proof, answered the parties' questions, and discussed whether additional evidence would be requested. During the Prehearing Meeting, Petitioner's authorized representative, Wenjing Wang, requested a postponement of the Hearing for good cause, which was granted.
8. On February 7, 2024, after the Prehearing Meeting, the Hearing Officer issued a Prehearing Order. The parties were granted until May 6, 2024 to submit documents requested by the Hearing Officer and any additional documents they desired to submit.
9. A Notice of Hearing Officer Prehearing Order and Notice of Hearing were served on the parties by the City on February 8, 2024. The Hearing was set for May 30, 2024 at 1:00 p.m.
10. On February 15, 2024, the Hearing Officer inspected the Affected Unit, accompanied by James Olson, Building Inspector with the City of Mountain View Fire Department and Environmental Protection Division. Petitioner's authorized representative, Wenjing Wang, was present at the site visit, as was Alitcel Camacho, Outreach Specialist from the City of Mountain View, and interpreter Arianna Menhenett. Regional Property Manager Reeta Rao was present for the initial portion of the site inspection.
11. A Hearing was held on May 30, 2024, as duly noticed. At the Hearing, Respondent objected to Petitioner's authorized representative, Wenjing Wang, testifying about issues not raised in the Petition. Respondent's objection was sustained, and the Hearing Officer ruled that she would strike references to issues not raised in the Petition.
12. On May 31, 2024, the Hearing Officer issued a Post-Hearing Order requesting further evidence from the parties on or before June 13, 2024, and giving the parties an opportunity to respond to the evidence on or before June 20, 2024. The City served a Notice of Hearing Officer Post-Hearing Order on all parties on June 3, 2024.
13. Petitioner and Respondent submitted additional documentary evidence as requested in the Post-Hearing Order.
14. The Hearing Officer issued a Post-Hearing Order re Closing the Record on July 1, 2024. A Notice of Hearing Officer Post-Hearing Order was served on the parties by the City on July 8, 2024.
15. The Record was closed on July 1, 2024.

## **II. HEARING ATTENDANCE**

The parties present at the Hearing were: Wenjing “Jenny” Wang (“Ms. Wang”), Authorized Representative of Petitioner Shichao Wang; and Stephen A. Welter (“Mr. Welter”), Managing Partner of Landlord Agate Bay, LLC (“Respondent” or “Landlord”).

Reeta Rao, Regional Property Manager, CBW Properties, Inc. (“Ms. Rao”) and Jordan Rao, on-site Property Manager for Shoreline Village Apartments (“Mr. Rao”) also attended the Hearing. Mr. Rao and Ms. Rao are designated collectively herein as “Property Manager.”

Joann Pham attended the Hearing on behalf of the City Rent Stabilization Division.

Mandarin interpreters Ariana Menhenett and Ivy Xu interpreted for the parties.

## **III. WITNESSES**

The following persons, duly sworn, testified at the Hearing and presented the following testimony:

### Wenjing Wang

Ms. Wang testified that even though Petitioner pays rent on time each month, Respondent has not provided services as promised. She also feels that Property Manager has a bad attitude and that if they had treated her better, Petitioner would not have filed the Petition.

Property Manager promised that they would clean the Affected Unit, but they never did it. Mr. Rao also threatened to evict her and Petitioner.

Ms. Wang testified that she felt that Property Manager was playing tricks on her and Petitioner. For example, on February 7, 2024, there was no water in the Affected Unit, only “dirty water.” She called the office, but no one answered. Property Manager put a notice on the door of the Affected Unit that they would repair the pipes on February 8, 2024. She said that her neighbors received advance notice that the pipes would be repaired on February 8, but Petitioner did not receive notice even though Property Manager has his phone number. Instead of calling him, they just left a notice on the door. If they had let Petitioner know in advance, Petitioner would have saved some clean water to use while the water was shut off.

Ms. Wang also said that after the Prehearing Meeting for this Petition, the Hearing Officer issued a notice for an inspection of the Affected Unit on February 15, 2024, but Property Manager posted a notice for February 14, 2024. She texted Reeta Rao regarding whether the date had been changed, and Ms. Rao lied. She believes Ms. Rao posted the notice and lied to her to waste her time and trap her into looking like she was not cooperating with the inspection. Ms. Wang emailed the City Rent Stabilization Division, which confirmed that the inspection was for February 15, 2024 at noon, but Ms. Rao told her it was at 1:00 p.m. She felt that Ms. Rao was “trying to play games.” She said that the inspection on February 14, 2024 was for pest control, but that it was scheduled that way to confuse her.

Ms. Wang believes that Property Manager was purposefully trying to intimidate her and Petitioner in order to make them move out.

Ms. Wang also said that Property Manager entered the Affected Unit on March 21, 2024 without her knowing what they were going to do there. They posted a 24-hour notice, but it did not specifically state the purpose for the entry.

Ms. Wang stated that prior to Petitioner deciding to lease the Affected Unit, they did a walk-through with Mr. Rao, and Ms. Wang asked him to clean the fans, the floor in the kitchen, and the stove. Mr. Rao said that these items would be cleaned, but when Petitioner moved in, the cleaning had not been done. She does not recall filling in a move-in checklist. She said that no one from property management was there when they moved in and that the keys were left on the counter.

Ms. Wang testified that on June 27, 2023, she talked to Ms. Rao about having the Affected Unit cleaned. Ms. Rao called the cleaning contractor and asked Ms. Wang to wait in the Affected Unit for her. Ms. Wang met with the cleaning contractor at 5:00 p.m. and told her where to clean. The cleaning contractor had no cleaning supplies with her. The cleaning contractor said that the carpet needed steam cleaning. She told Ms. Wang that she could not come that weekend to clean but would come back between July 8 and July 15, 2023. Ms. Wang gave the cleaning contractor her son's phone number and asked her to let her son know before she came; however, the cleaning contractor never called her son. Ms. Wang followed up with the office but received no response.

Ms. Wang testified that on June 27, 2023, she complained to Ms. Rao that there was no microwave in the Affected Unit. A maintenance technician called [REDACTED] came to the Affected Unit to bring her a microwave, and at that time, she told him about all of the issues in the Affected Unit. She also said that since September, she has been mailing letters to the office about all of the issues in the Affected Unit. On September 6, 2023, she left a handwritten list of all of the repairs that needed to be done in the Affected Unit in the mailbox where rent checks are left.

Ms. Wang testified that when there was a leak in the bathroom ceiling, she was unable to use the bathroom or shower for three days. Mr. Rao gave her permission to use the bathroom in the office, but Ms. Rao vetoed that. Ms. Rao said that Ms. Wang was harassing Mr. Rao, but she just wanted to use the bathroom.

Ms. Wang said that the leak started on October 27, 2023. She called the emergency maintenance number that night between 7:00 and 9:00 p.m., and Mr. Rao answered. However, he did not send a maintenance technician right away. She had to call the office again in the afternoon of October 28, 2023. She also said that Ms. Rao came to the Affected Unit that afternoon and told Ms. Wang to move out because Ms. Rao does not like her. When a maintenance technician came to investigate the leak, they cut a hole in the ceiling with a knife. They used one of Ms. Wang's plastic bags without her permission to cover the hole. She said that when they cut the hole, rotted things fell into the bathroom. Water was still leaking into

the bathroom after that. The leak stopped on October 30, 2023. Neither the maintenance technician nor Property Manager cleaned up after opening a hole in the ceiling or after the work was done. Ms. Wang cleaned it up herself. She said that the smell in the bathroom was really bad and as a result she could not eat. Ms. Wang testified that when the maintenance technician fixed the ceiling leak, he caused the bathtub to become clogged.

Ms. Wang also said that when Property Manager had repairs performed, they would not let her stand nearby to observe, so she does not know if they really repaired anything.

Ms. Wang testified that there was a smelly rag in the kitchen sink when Petitioner moved into the Affected Unit. She said that she called Property Manager right away to complain, but no one answered the phone. She stated that when she got rid of the rag, the chemical smell went away.

Ms. Wang testified that the dishwasher smelled bad when Petitioner moved in, and that she told Ms. Rao about it on June 27, 2023. Ms. Rao promised to have it cleaned, but Ms. Wang ended up washing it three times in order for the smell to go away.

Ms. Wang said that she told Ms. Rao on June 27, 2023 that the blinds in the living room were broken. They were repaired on October 13, 2023.

Ms. Wang stated that she told Ms. Rao about mold on the kitchen counter on June 27, 2023 and showed her photos of the mold. She said that the mold was never removed but just painted over.

She also said that the mold on the bathroom counter and the mold next to the refrigerator were also just painted over.

Ms. Wang gave notice of bed bugs in the Affected Unit when she filed the Petition. She is not sure if the problem has been resolved. She said that someone came to inspect for bed bugs on February 14 or February 15, 2024. They found no bed bugs in the bed, but that does not guarantee that there are no bugs on the floor because the floor color is similar to the color of bed bugs. She said that she has not had a rash since she left the Affected Unit to go overseas for a number of weeks; however, she consulted dermatologists in China by showing them pictures of her bug bites, and they said they were bed bugs. She said that she cannot tell if she has been bitten again since she came back.

Ms. Wang testified that Respondent's maintenance technicians clogged the toilet after fixing a hole under the bathroom sink on October 13, 2023. The hole was a gap on the wall where the pipe connected to the wall. She said that after the technician filled in the gap, he threw a substance into the toilet. She said that she called [REDACTED] to look at it, and he flushed the toilet, but that a plastic piece floated on top, and he took it out. Ms. Wang thought he had fixed the problem; however, the toilet was still clogged after that. She and her son and a friend of his fixed the toilet themselves, which took seven or eight hours. She later told Ms. Rao that she did

not want the maintenance technician who had clogged the toilet to come back again to fix anything in the Affected Unit.

With respect to the issue of the toilet tank filling too slowly, she believes it was related to the clog in the toilet. She said that [REDACTED] came to fix the toilet seat, and the issue seemed to be resolved. She said that she was not complaining about this issue.

Ms. Wang testified that she did not receive a card for the laundry room until August 21, 2023. She had called the office numerous times, but no one answered. Her husband ran into [REDACTED] at that point, and [REDACTED] gave him the card. Ms. Wang said that Petitioner received a second laundry card after she filed the Petition. The second card was put into an envelope and stuck onto the door of the Affected Unit.

Ms. Wang stated that she informed Property Manager about the leak under the kitchen sink on June 27, 2023, and that when the maintenance technician came to the Affected Unit on October 13, 2023, he decided that it was not leaking, so he did not repair it. The leak still exists, and Petitioner uses a box that is placed under the sink to catch the drip. She also said that there is a water stain under the bathroom sink, but the technician also said that there was no problem there.

Ms. Wang testified that James Olson (Building Inspector for Mountain View Division of Fire and Environmental Safety) was scheduled to inspect the Affected Unit on November 9, 2023. She had called him because the cable of the oven was exposed, and she felt it was unsafe to use the oven. Then the leak in the bathroom ceiling happened on October 27, and she exchanged emails with Mr. Olson about the issues in the Affected Unit. On October 31, 2023, Mr. Olson sent emails asking whether the issues had been repaired and said that if he could not get hold of management, he would stop by the next day. Then Ms. Wang communicated with Mr. Rao about an inspection date and time. But after that, she was accused of harassing the staff and was not allowed to use the office bathroom. Ms. Wang said that because Mr. Olson could not reach management to confirm the date and time, the inspection did not happen. In November, Mr. Olson was asked by Property Manager to inspect, and Ms. Wang welcomed his coming, but he did not show up. She said that she emailed him on November 7, 2023, telling him not to come because she was sick. On November 9, 2023, someone opened her door without her permission. She said that the appointment time for the entry on November 9, 2023 was 2:00 p.m., but the attempt to open the door was earlier than 2:00 p.m. She was frightened by this, and she called the police.

Ms. Wang said that between November 1 and November 7, 2023, Property Manager kept sending notices to do different things in the Affected Unit. For November 1, they said they were going to paint the ceiling in the bathroom, but no one showed up. On November 3, 2023, she received a notice that said it was a pre-move-out inspection, but she had never given notice that anyone was moving out. She said that if she called the office, she was told that she was harassing staff and that they would call the police. Ms. Rao sent a warning letter.

Ms. Wang said that Respondent's staff illegally entered the Affected Unit and that they should be subject to penalties under State law. She also feels Respondent's timeline is incorrect and staff is dishonest. She said that Respondent was abusing her equal rights and the safety of their workers. She stated that if Property Manager had acted professionally, she would not have brought the Petition.

Stephen Welter

Mr. Welter testified that Mr. Olson inspected the Affected Unit and provided a list of findings. Respondent made the repairs noticed in the report from Mr. Olson, and asked him to reinspect the Affected Unit. However, Mr. Olson said that he would not arrange for a reinspection unless the reinspection was approved in writing by Petitioner. Property Manager emailed Petitioner and asked for written permission, and Petitioner never responded. Mr. Olson suggested that Respondent inform Petitioner that Mr. Olson would assume that all items were repaired unless Petitioner reached out with written approval of the reinspection and a time to inspect. Mr. Welter considers the repairs signed off on because no one ever heard back from Petitioner allowing a reinspection.

Mr. Welter stated that Ms. Wang is not on the lease and that he has directed his staff for the past several months to only speak with the tenant on the lease. That is why staff has not responded to Ms. Wang's phone calls and inquiries. He is aware that the CSFRA has regulations about family members, but he believes that he is entitled to have Ms. Wang fill out an application and provide identification. Ms. Wang has never tried to be added to the lease. Petitioner is in breach of contract because Ms. Wang has been inhabiting the Affected Unit for over two weeks. Mr. Welter said that he has refrained from acting upon the breach of the lease due to the Hearing.

Mr. Welter testified that the laundry room was accessible to Ms. Wang and Petitioner. The door is not locked. Petitioner received a laundry card when he moved in on June 26, 2023. Petitioner came to the office and received keys and the laundry card. This was documented by Mr. Rao. The office is open five days a week, and office hours are posted. Inside the office, there are machines for purchasing additional laundry cards. In the case of Petitioner, Property Manager provided an additional laundry card in order to manage the situation.

With respect to the leak from the bathroom ceiling in the Affected Unit, a wax ring on the toilet needed to be replaced in the rental unit above the Affected Unit. The replacement was done, and the leak was stopped on October 28, 2023. The maintenance technician opened an access hole in the ceiling of the Affected Unit in order to inspect the condition of the ceiling and to allow the area to dry. The bag was placed there to both allow air flow and to catch anything that fell after the maintenance technician left. Mr. Welter said that he is aware of the photographs that Petitioner took of the state of the bathroom, but he said that the photographs documented when the repairs were in progress. He said that he has written documentation from the maintenance staff that the bathroom was left clean and in good condition after the repairs.

Mr. Welter testified that the invoice he submitted indicated that the carpet was steam-cleaned prior to when Petitioner moved in.

Mr. Welter stated that requests for repairs are supposed to be done on the website or written and given to the staff in the office. Staff do not accept verbal notices. If a staff member is in a rental unit and they are asked to look at something, they will do it, but tenants are required to go through the office for maintenance requests.

Mr. Welter testified that he felt that Ms. Wang's expectations regarding habitability were not within the realm of what is normal. He does not believe there were any habitability issues in the Affected Unit. He said that staff addressed the issues as promptly as they could. Normally, tenants want things fixed promptly, but in this case, staff had to work hard to be able to get access to make repairs.

Mr. Welter said that the move-in/move-out forms that tenants fill out are put into the tenant's file and used as a pre-existing conditions form unless there are items listed that need to be addressed. Items that need to be addressed would include such things as broken blinds. That sort of thing would be construed as a written request for a work order. Something like peeling finish on a sink would be considered as noting a pre-existing condition.

On November 3, 2023, an incorrectly written notice to enter was posted at the Affected Unit because it provided for a pre-move-out inspection rather than a pest inspection. Ms. Rao wanted to provide 48-hour notice to Petitioner for a pest inspection for bed bugs; however, there was no pre-printed form of 48-hour notice, so she meant to adapt the 48-hour notice for pre-move-out inspection to indicate that it was a for a pest control inspection. She edited the notice to provide for pest inspection; however, the unedited version was mistakenly posted to Petitioner's door. Mr. Welter believes that Petitioner knew that the November 3, 2023 notice was for a pest control inspection, not for a move-out inspection. A second, properly edited notice was posted on November 6, 2023 for an inspection on November 9, 2023. Entry was denied.

On February 7, 2024, Property Manager posted a notice to enter on February 8, 2024. This was in order to deal with the issue of the "dirty water" coming from the pipes. Mr. Welter said he was not aware that the notice listed February 7, 2020 as the date when it was served.

On February 14, 2024, there was an inspection for pest control and the technician concluded that there were no visual signs of bed bugs.

Mr. Welter said that he had no knowledge of the notice to enter dated November 1, 2023 in order to paint the bathroom ceiling, and he was not aware that it was posted on the same day that the entry was supposed to occur. Nor was he aware that no one showed up as indicated on the notice. He said that he had a notice dated November 1, 2023 for entry on November 2, 2023.



Mr. Welter said that he did not know the reason for the entry into the Affected Unit on March 21, 2024.

Mr. Welter said that he would refer the Hearing Officer to the Petition Response and supporting documents for any other information addressing the issues raised by the Petition.

Mr. Welter stated that under the lease, the landlord may enter after 24-hour notice and that there is no requirement of agreement by the tenant. Notices were posted, and it took posting of three to five notices to get in to do anything whereas it usually takes one notice with other tenants. He said that he cannot remember during past decades this much “drama” from trying to carry out work orders.

He said that Ms. Wang’s expectations are not commensurate with a 65-year-old building. Photographs showing dripping paint or peeling finish are to be expected in a 65-year-old building.

Mr. Welter admitted that his staff made technical errors in some of the notices that were posted, but that did not substantially affect what they were trying to do. He said that his staff could do better with respect to clerical errors.

#### Reeta Rao

Ms. Rao testified that there was supposed to be an inspection by Mr. Olson in November 2023. Property Manager requested it; however, entry was denied by Ms. Wang. Property Manager has an inspection report from an inspection in February 2024.

Ms. Rao stated that the policy for repair notices is that tenants go to the website, fill out a maintenance request, and then acknowledge that they allow entry into the rental unit. If the allowance of entry is not acknowledged, Property Manager posts a 24-hour notice. She said that Property Manager also accepts maintenance requests in writing. When tenants move in, they are told orally how to request maintenance and repairs.

Ms. Rao said that the “dirty water” problem occurred when there was an emergency plumbing issue at the Property. Property Manager sent a text to residents prior to turning off the water. After the water was turned back on, it was dirty for a short period.

Ms. Rao testified that, in addition to the notices that Mr. Welter testified about, there was a notice to enter posted on February 14, 2024 for an inspection by Mr. Olson on February 15, 2024. On February 13, 2024, Property Manager posted a notice regarding inspection for pest control with entry on February 14, 2024. There was also a notice posted on March 11, 2024 for entry on March 12, 2024 to perform the work required by Mr. Olson in his inspection report. There was also a letter posted on November 7, 2023 for the inspection by Mr. Olson scheduled for November 9, 2023, which was cancelled by Ms. Wang.

Ms. Rao said that she did not have a record of entry into the Affected Unit on March 21, 2024, but she believed it was for a semi-annual inspection performed on all rental units in the building.

She said that carpets are replaced when the vendor hired to clean them tells Property Manager that the carpet is no longer cleanable and must be replaced. She did not know the age of the current carpet.

Ms. Rao said that the Affected Unit was remodeled in 2016, and at that time, new appliances were installed.

#### **IV. EVIDENCE**

The following documents were submitted prior to the Hearing and marked and entered into evidence without objection:

##### Hearing Officer's Exhibits

1. Notice of Acceptance of Petition, dated 11/22/2023, with Hearing Information Sheet, Authorized Representative Form, and Proof of Service attached
2. Follow-up Information for Petition, dated 11/22/2023, with Tenant Petition, Workbook, Notice of Submission and Proof of Service, Hearing Information Sheet, Response Notice, Authorized Representative Form, and proof of service attached
3. Notice of Prehearing Meeting and Hearing Date, dated 12/20/2023, with proof of service
4. Notice of Hearing Officer Pre-Hearing Order and Notice of Hearing, dated 2/8/2024, with Pre-Hearing Order, dated 2/7/2024, Hearing Information Sheet, and proof of service attached
5. City of Mountain View Fire and Environmental Protection Inspection Report, dated 2/15/2024

##### Petitioner's Exhibits

1. Petition B: Failure to Maintain Habitability or Decrease in Housing Services, dated 10/23/2023, with Workbook and Notice of Submission and Proof of Service
2. Amended Petition B: Failure to Maintain Habitability or Decrease in Housing Services, dated 10/23/2023 and served on 11/7/2023
3. Amended Workbook, served on 11/7/2023
4. Amended Notice of Submission and Proof of Service, dated 11/7/2023
5. Representative Authorization Form for Shichao Wang, dated 9/19/2023
6. Lease Agreement, undated, signed on 6/24/2023 and 6/27/2023

7. Rent Ledger, dated 9/14/2023, for the period 3/14/2023 through 9/14/2023
8. Forty-Eight Hour Notice to Enter, dated 11/3/2023
9. Petitioner's List of Issues in the Affected Unit, handwritten, undated
10. Photos, 33 pages, with commentary
11. Video of ceiling leak, dated 10/28/2023
12. Letter from Jenny Wang to Angee Jenson, dated 9/8/2023
13. Postal Receipt, dated 9/11/2023
14. Email from W. Wang to Shoreline Properties and Reeta Rao re Unit 507-█ cleaning issues, dated 10/23/2023
15. Email from S. Wang to Shoreline Properties and Reeta Rao re Reeta's behavior, dated 10/28/2023
16. Email from W. Wang to Shoreline Properties and Reeta Rao re 507-█ water leaking from roof, dated 10/28/2023
17. Email from W. Wang to Shoreline Properties and Reeta Rao re 507-█ sewer blockages today, dated 10/29/2023
18. Email from S. Wang to Shoreline Properties and Reeta Rao re leaking from upstairs toilet around 9 p.m., dated 10/31/2023
19. Email from Reeta Rao to Shichao Wang, dated 10/31/2023
20. Email from S. Wang to Shoreline Properties and Reeta Rao re not available Nov. 1<sup>st</sup>, dated 11/1/2023
21. Email streams between Petitioner and James Olson, dated 11/8/2023 through 11/13/2023
22. Three photos of dirty water, undated
23. Email re dirty water, dated 2/13/2024, with attached photos and notice regarding entry dated 2/7/2020
24. Email stream between W. Wang, J. Pham and P. Black, copied to R. Rao, re inspection, dated 2/8/2024 and 2/13/2024
25. Email from W. Wang to Reeta Rao re inspection entry, dated 2/13/2024 at 12:52 p.m.
26. Twenty-four Hour Notice to Enter Dwelling Unit, dated 2/7/2020
27. Email from W. Wang re Twenty-four Hour Notice to Enter, dated 2/14/2024 at 11:46 a.m.
28. Twenty-four Hour Notice to Enter Dwelling Unit, dated 2/14/2024

29. Email re Twenty-four Hour Notice to Enter Dwelling Unit for pest control, dated 2/14/2024 at 12:06 p.m.
30. Email from W. Wang re Twenty-four Hour Notice to Enter Dwelling Unit for pest control, dated 2/14/2024 at 12:13 p.m.
31. Email to Reeta Rao re entry for repairs, dated 3/20/2024 at 9:43 p.m.
32. Twenty-four Hour Notice to Enter Dwelling Unit, dated 3/20/2024
33. Excerpt from a treatise on tenants' rights
34. Project Sentinel document about right of entry
35. Screenshot of a text message re water shutoff
36. Email from W. Wang to J. Pham, dated 5/3/2024 at 7:33 p.m.
37. 24-Hour Notice for Entry, addressed to S. Wang, dated 11/1/2023
38. 48-Hour Notice to Enter Dwelling for Pre-Moveout Inspection, dated 11/3/2023
39. Letter from Shoreline Village Apartments, dated 11/7/2023 re Unit Inspections
40. Email from W. Wang to J. Pham, dated 5/3/2024 at 7:48 p.m.
41. USPS Receipt, dated 11/7/2023
42. Email from W. Wang to J. Pham, dated 5/3/2024 at 10:34 p.m.
43. Twenty-four Hour Notice to Enter Dwelling, dated 2/13/2024
44. Email from W. Wang to J. Pham, dated 5/3/2024 at 10:44 p.m.
45. Email from W. Wang to J. Pham, dated 5/5/2024
46. Photo of Workmen (Screenshot of Video)

#### Respondent's Exhibits

1. Representative Authorization Form, dated 12/29/2023
2. Petition Response Form, dated 1/11/2024
3. Receipt for cleaning service, dated 6/14/2023
4. Receipt for carpet cleaning, dated 6/15/2023
5. Statement from Jordan Rao, dated 12/28/2023
6. Statement from [REDACTED], dated 1/4/2024
7. Statement from Reeta Rao, dated 1/8/2024

8. Move-In/Move-Out Itemized Statement, dated 7/31/2023
9. Email stream between Reeta Rao and Wenjing “Jenny” Wang, dated 9/21/2023 and 9/29/2023
10. Service Order, dated 10/9/2023
11. Email from [REDACTED] to Steve Welter re work order complaint, dated 12/30/2023
12. Forty-eight Hour Notice to Enter Dwelling, dated 11/3/2023
13. Killroy Pest Control report, dated 11/6/2023
14. Forty-eight Hour Notice to Enter Dwelling, dated 11/6/2023
15. Killroy Pest Control report, dated 11/9/2023
16. Killroy Pest Control invoice, dated 11/9/2023
17. Letter from Shoreline Village Apartments re unit inspection, dated 11/7/2023
18. Photo of documents taped on door of Affected Unit, undated
19. Emails between Reeta Rao and James Olson, dated 12/14/2023
20. Email from Reeta Rao to Shichao Wang, dated 12/15/2023
21. Emails between Reeta Rao and James Olson, dated 11/1/2023
22. Email from James Olson to Reeta Rao, dated 11/9/2023 at 5:57 p.m.
23. Emails between Wenjing Wang and James Olson, dated 11/9/2023 at 1:51 and 2:18 p.m.
24. Emails between Wenjing Wang and James Olson, dated 11/7/2023
25. Emails between James Olson and Wenjing Wang, dated 11/9/2023 at 12:12 and 2:04 p.m.
26. Email from Reeta Rao to Shichao Wang re schedule for inspections today, dated 11/9/2023
27. Email from Steve Welter to Wenjing Wang dated 2/8/2024, with attached email stream between Wenjing Wang and Reeta Rao, dated 2/7/2024 and 2/8/2024
28. Email from Reeta Rao re pest control, dated 2/14/2024 at 11:56 a.m.
29. Email from Steve Welter to Rita Rao re Twenty-four Hour Notice to Enter Dwelling Unit, dated 3/12/2024, with emails from 3/12/2024 and 3/11/2024 in the stream
30. Twenty-Four Hour Notice to Enter Dwelling Unit/Premises, dated 3/11/2024, with proof of service
31. Email from Steve Welter to J. Pham, dated 3/22/2024, with attached stream of emails from 3/20/2024 and 3/21/2024

The following documents were submitted after the Hearing in response to the Hearing Officer's Post-Hearing Order and marked and entered into evidence without objection:

Petitioner's Exhibits

47. Email from Wenjing Wang to Patricia Black et al. re police report, dated 6/18/2024, with attached email stream

48. Notice Regarding Additional Occupant, dated 6/25/2024

Respondent's Exhibits

32. Service Orders, dated 10/30/2023 and 11/7/2023

33. Invoice from Edgar Floors, dated 11/18/2022

34. Email stream between Code Enforcement Officer James Olson, Reeta Rao, and Steve Welter, dated 3/28/2024 through 4/16/2024

35. Emails from Reeta Rao to Shichao Wang, dated 3/28/2024 and 4/16/2024

36. Kilroy Pest Control, Inc. Service Report, date 2/14/2024

37. Statement by [REDACTED], undated

38. 24 Hour Notice for Entry, dated 11/1/2023 for entry on 11/2/2023

39. Twenty-four Hour Notice to Enter Dwelling, dated 3/20/2024, with attached Inspection Report, dated 2/15/2024

**V. ISSUES PRESENTED**

A. Whether Respondent failed to maintain habitable premises due to the following conditions: (1) kitchen sink smells and has stains; (2) dishwasher smells and is dirty; (3) broken blinds in the living room; (4) mold in the kitchen from a water leak under the sink; mold on the counter; and mold next to the refrigerator; mold in the bathroom on the counter and from a water leak under the sink through the gap between the pipes and the wall; (5) bed bug infestation; (6) clogged toilet; (7) toilet tank not filling fast enough; (8) leak from the bathroom ceiling; (9) peeling finish in the bathroom sink.

B. Whether there was a decrease in Housing Services or maintenance, due to the following: (1) no laundry card was provided at move-in; and (2) the Affected Unit was inadequately clean prior to move-in.

**VI. FINDINGS OF FACT IN SUPPORT OF THIS DECISION**

1. Petitioner entered into a lease for the Affected Unit for an initial approximately eight-month term commencing on June 26, 2023 and terminating on February 28, 2024 (the "Lease"). The

Affected Unit is a one-bedroom rental unit located in an apartment complex known as Shoreline Village Apartments (the “Property”).

2. While Petitioner has not participated in the Petition process and has delegated his rights for that purpose to his authorized representative, who is his mother, it is assumed that Petitioner occupies the Affected Unit. The evidence also shows that Petitioner’s mother occupies the Affected Unit for various lengths of time.

3. Rent for the initial term of the Lease was \$2,195.00 per month. As of the date of the Hearing, Petitioner was paying \$2,195.00 for the Affected Unit on a month-to-month basis.

4. Respondent presented invoices indicating that the Affected Unit was cleaned on June 14, 2023, and the carpet was cleaned on June 15, 2023, prior to Petitioner moving in.

5. Evidence was also presented that new appliances were installed in 2016 when the Affected Unit was remodeled and that a new carpet was installed in November 2022.

6. On June 23, 2023, prior to the effective date of the Lease and prior to moving in, Petitioner and his parents did a walk-through of the Affected Unit with the resident manager, Jordan Rao. Ms. Wang testified that she told Mr. Rao that the Affected Unit was in need of cleaning and that she specifically asked that the bathroom, kitchen counter, stove, vents and carpet be cleaned, and Mr. Rao agreed. Mr. Rao submitted a statement saying that Petitioner only mentioned the kitchen counter near the stove needed to be cleaned.

7. On July 31, 2023, Petitioner filled in and signed a “Move In/Move Out Itemized Statement” form (the “Move In/Move Out form”), which was signed by Mr. Rao on August 24, 2023. The form indicated that the kitchen counter and sink were dirty, that the stove was scratched and greasy, that the dishwasher smelled, that the living room blinds were dirty, dusty and cracked, that the caulking in the bathroom had some cracks, that the bathroom sink was scratched and peeling, that the exhaust fan was dirty, that the shades in the bedroom were dirty and cracked, and that the hallway vent was dirty and dusty.

8. Mr. Welter testified that the Move In/Move Out form is generally considered as providing evidence of pre-existing conditions in the rental unit, so that tenants are not charged for those conditions when they move out. He also said that if there were something on the form that necessitated repairs, those would be addressed. As an example of repairs that would be performed based on a Move In/Move Out form, he suggested that broken blinds would be repaired.

9. On June 27, 2023, after a heated discussion about the cleanliness of the Affected Unit between Ms. Wang and property management staff, Ms. Wang spoke to Reeta Rao to let her know that Ms. Wang felt that inadequate cleaning had been done in the Affected Unit. Ms. Wang informed Ms. Rao orally about the smell in the kitchen sink, the smell in the dishwasher, the broken blinds in the living room, the alleged mold on the kitchen counter and in the bathroom, and the alleged mold next to the refrigerator.

10. After speaking to Ms. Wang, Ms. Rao contacted the cleaning contractor, [REDACTED], to have her meet with Ms. Wang. Ms. [REDACTED] submitted a statement saying that she met with Ms. Wang at the Affected Unit at 5:30 p.m. on June 27, 2023. Ms. Wang told her that the bathroom, kitchen counter, area under the refrigerator, and the stove were in need of further cleaning. Ms. [REDACTED] said that the area under the refrigerator was a piece of wood that Ms. Wang thought was dirty but it was damaged and thus appeared dirty.

11. Ms. [REDACTED] stated that Ms. Wang requested that Ms. [REDACTED] return on Saturday, July 1, 2023, to clean, but Ms. [REDACTED] was not available, so they settled on Friday, June 30, 2023. Ms. [REDACTED] said in her statement that Ms. Wang was not at the Affected Unit when Ms. [REDACTED] arrived at the agreed-upon time. Ms. Wang testified that Ms. [REDACTED] had told her that she would be able to clean the week of July 8, 2023, so she gave her son's phone number to Ms. [REDACTED] and asked her to call her son to alert him to when she would be at the Affected Unit, but she never called. Ms. [REDACTED] stated that she was not able to arrange another time to clean.

12. Respondent submitted a statement from Ms. Rao saying that when she followed up with the cleaning contractor, she was told that Petitioner had arranged to have the cleaning done on Friday, June 30, 2023 but that no one answered the door when she arrived at the agreed-upon time.

13. Ms. Wang also testified that on June 27, 2023, she told Ms. Rao that there was no microwave in the Affected Unit. Ms. Rao sent maintenance technician [REDACTED] ("Mr. [REDACTED]") to deliver a microwave. While Mr. [REDACTED] was in the Affected Unit, Ms. Wang told him about the same conditions that she had discussed with Ms. Rao.

14. Mr. Welter and Ms. Rao testified that tenants are told upon move-in that the method for requesting repairs is through the Property's website or in other written form. Verbal requests to staff are not considered appropriate notice.

15. On September 6, 2023, Ms. Wang left a handwritten list of conditions in the Affected Unit in the box outside the office where tenants leave rent checks. The list included the following: (1) the blinds in the living room were sticky; (2) the stove was shaky, dirty and old and needed to be replaced; (3) the counters in the bathroom and kitchen needed professional cleaning; (4) the fans in the bathroom and kitchen needed cleaning; (5) the carpet needed steam cleaning; (6) the area next to the refrigerator was dirty and needed to be painted; (7) the bathroom floor needed professional cleaning; (8) the bathtub did not have a stopper; (9) the bathroom sink was broken and dirty.

16. On September 8, 2023, Ms. Wang sent a letter to Angee Jensen, an employee of Property Manager, explaining her interactions with staff about the cleaning issues. The letter stated that (1) on June 23, 2023, Petitioner had gone over what she believed needed to be cleaned and repaired in the Affected Unit with Mr. Rao—i.e., that the bathroom, kitchen countertop, stove, vents and carpet needed further cleaning-- but that nothing had been done; (2) on June 27, 2023, Petitioner showed photos to Ms. Rao of the condition of the Affected Unit; and (3) Ms.



Rao sent the maintenance technician, Mr. [REDACTED], with Petitioner to go over what needed to be done in the Affected Unit. Petitioner wrote that she followed up for two months, leaving messages and going by the office, but no one responded. Petitioner told Ms. Jensen that when she moved in, there was a strong gasoline smell in the kitchen sink. She said that there were two keys on the counter but no card for the laundry room. She also said that Property Manager Jordan Rao threatened to evict Petitioner on September 7, 2023 when she complained about the problems in the Affected Unit.

17. Ms. Wang testified that she received a card for the laundry room on August 21, 2023 when her husband ran into Mr. [REDACTED] in the hallway and requested one. She received a second laundry card, which was put in an envelope and attached to the door of the Affected Unit, after she filed the Petition. Respondent testified that laundry cards may be purchased in the office for \$5.00, and the laundry room is open at all times.

18. On September 21, 2023, Ms. Rao sent an email to Petitioner requesting a meeting to go over the problems in the Affected Unit. Petitioner did not find a time to meet.

19. On September 29, 2023, Ms. Wang sent an email to Ms. Rao listing the following problems with the Affected Unit: blinds damaged; mold on kitchen and bathroom counters; water leaking under the bathroom sink cabinet; the bathtub cannot be used for a bath; mold on the wall next to the refrigerator; loose toilet seat; stove not fully functional, dirty, and oven indicator does not show temperature. Ms. Rao called the maintenance person, Mr. [REDACTED] to follow up, and Petitioner showed Mr. [REDACTED] what needed to be done.

20. A service order dated October 9, 2023 indicated that the repairs were done on October 13, 2023. A memorandum from Mr. [REDACTED] to Mr. Welter, dated December 30, 2023, elaborates on the work that was completed per the service order. The memorandum states that two slats on the blinds were replaced. It also states that there was no visible mold on the kitchen or bathroom countertops, but they noticed black grease on the underside of the countertops and cleaned it off. Mr. [REDACTED] said that he did not see any leaks under the bathroom cabinet, but that he filled in the gap near the drain line. In inspecting the bathtub, he found that there was no drain stopper, so he provided one. He did not see any signs of mold next to the refrigerator, but he painted the divider next to the refrigerator which needed painting. He also reinstalled the toilet seat so that it was no longer loose. He observed that the stove was clean and that the display was functioning properly. He instructed Ms. Wang how to use the stove temperature display. Finally, he said that Respondent's policy is to provide two keys to the rental unit and one mailbox key, which Ms. Wang had. He also stated that there were no chemical or gas smells in the Affected Unit.

21. With respect to the smell in the kitchen sink, Ms. Wang testified that there had been a smelly rag in the kitchen sink, which she disposed of, thus eliminating the smell. Concerning the dishwasher, Ms. Wang testified that she washed the dishwasher three times, and the smell that bothered her went away.

22. Ms. Wang submitted photographs with the Petition alleging that there was a leak under the kitchen sink. She testified that she had told Ms. Rao about the leak on June 27, 2023, and that when the maintenance technician came on October 13, 2023, he said the sink was not leaking, so he did not repair it. She said that she placed a cardboard box under the sink to catch the leaking water.

23. On October 13, 2023, a maintenance technician, most likely [REDACTED] ("Mr. [REDACTED]"), filled in a gap between the pipe and the wall under the bathroom sink. After Ms. Wang complained about the plastic substance used to plug the gap being disposed of in the toilet, Mr. [REDACTED] removed the plastic substance. Ms. Wang testified that the toilet was clogged afterwards, but her son and a friend repaired it, although it took seven or eight hours. Ms. Wang later told Ms. Rao that she did not want the maintenance technician who had put the substance in the toilet working in the Affected Unit in the future. In the Petition, Ms. Wang alleges that the substance was intentionally placed in the toilet to clog it as a retaliatory measure.

24. On October 23, 2023, Ms. Wang sent an email to Ms. Rao stating that the maintenance technician had thrown something into her toilet, which she thought was done intentionally to cause more problems in the Affected Unit, that something in the Affected Unit was causing her to have a rash, and asking her to follow up to get the cleaning done.

25. Ms. Wang testified that the claim in the Petition regarding the toilet tank filling too slowly was caused by the clog in the toilet and was resolved when Mr. [REDACTED] repaired the toilet seat.

26. On the night of October 27, 2023, Ms. Wang called Respondent's emergency repair number to report a leak from the ceiling in the bathroom, and she spoke to Mr. Rao. Ms. Wang called again on October 28, 2023, repeating to Mr. Rao that the problem was urgent and that the leak was getting worse. The cause of the leak was a worn wax ring on the toilet in the rental unit above the Affected Unit. The ring was replaced on October 28, 2023, and the leaking was stopped. That afternoon, Mr. Rao went to the Affected Unit with a maintenance technician, Mr. [REDACTED], who opened an access hole in the ceiling of the Affected Unit in order to inspect the condition of the ceiling and to allow the area to dry. Mr. [REDACTED] put up a plastic bag belonging to Ms. Wang to cover the hole, which was intended to catch anything that fell from the hole while still allowing air to circulate.

27. Ms. Wang testified that when the hole in the ceiling was opened, debris and dirty water fell into the bathroom and damaged some personal possessions, which had to be thrown away. She said that the debris smelled bad. According to Ms. Wang, Mr. [REDACTED] did not make any effort to clean up the mess when he was done working. However, Mr. Welter pointed out in his testimony that the photographs that Ms. Wang submitted from October 28, 2023 showing dirt in the bathroom were taken while work was being done, as witnessed by the presence of a ladder and a dustpan.

28. Mr. [REDACTED] wrote in an undated statement that while working on October 28, 2023, “I continue to clean everything in her Apt collecting all the drops from the ceiling and leave Bathroom clean.”

29. Petitioner sent an email on the evening of October 28, 2023, complaining that Property Manager had been slow to act with respect to the leak and that Ms. Rao had come to the Affected Unit and yelled at Ms. Wang. Ms. Wang testified that Ms. Rao had said Ms. Wang should move out because Ms. Rao does not like her.

30. Ms. Wang testified that between October 28, 2023 and October 30, 2023, the leak continued, dripping between the bathtub and the toilet. Petitioner submitted a video, dated October 28, 2023, showing the leak, but did not submit any videos of the leak after the hole in the ceiling was opened and plastic bag was placed over it. Ms. Wang requested of Mr. Rao that she be allowed to use the bathroom in a vacant unit; however, she was told that she could only use the toilet in the office. The office was locked over the weekend on October 28 and October 29, 2023. The maintenance staff patched up the ceiling on the afternoon of October 31, 2023. Mr. [REDACTED] submitted a statement saying that he cleaned up after the work was done.

31. Ms. Wang testified that she thought that the work on the bathroom ceiling caused a clog in the bathtub. On October 29, 2023, Ms. Wang sent an email to Ms. Rao regarding a sewer blockage in the bathtub.

32. A Service Order, dated October 30, 2023, indicated that Mr. [REDACTED] was sent to the Affected Unit to look at the bathtub, but Ms. Wang denied entry. On October 31, 2023, Mr. [REDACTED] returned to the Affected Unit in order to patch the hole in the ceiling, and he reported in a Service Order that he found nothing wrong with the bathtub or toilet.

33. Mr. [REDACTED] wrote in Service Orders from October 28, 2023 through October 31, 2023 that he did not feel comfortable working in the Affected Unit because Ms. Wang stood very close to him, impeding his ability to work, took videos of him without his permission, and yelled at him. He said that he had to close the bathroom door in order to be able to work.

34. Mr. [REDACTED] also wrote in a statement attached to the Service Orders that he cleaned the bathroom as best he could and removed his tools after patching the ceiling. On October 31, 2023, Ms. Wang sent an email requesting that Respondent professionally sanitize the bathroom.

35. Ms. Rao sent an email to Petitioner on October 31, 2023, which stated:

“I have asked you to meet with us for an inspection of your apt 3 times and have not heard back from you yet. Today the maintenance tech went and patched up the bathroom ceiling the work is not completed yet we will go back to paint after posting a 24 hr notice. The sheet rock mud needs to dry in the ceiling.

The person who is in the apt, keeps calling us and email she does not give us the space to do the work takes videos without our permission. This person is harrasing my staff she keeps coming to the office wants to use our staff bathroom. She needs to give us time and space to do our work.

If this does not stop I will call the authorities for harassment.”

36. A Service Order dated November 7, 2023 states that Mr. [REDACTED] painted the ceiling in the bathroom and patched and repainted part of the wall.

37. The first time that Petitioner gave notice of alleged bed bugs in the Affected Unit was when the Original Petition was filed on October 23, 2023. Ms. Wang testified that while the pest control technician who inspected the Affected Unit concluded that there was no visual sign of bed bugs, she thought that they were in the floor because the floor is the same color as bed bugs. She said that her rash went away when she left the Affected Unit to go overseas, that she showed photographs of the rash to dermatologists in China who diagnosed it as bed bugs, and that she cannot tell if she has been bitten again since she has returned from her trip.

38. On November 1, 2023, Respondent posted a Twenty-Four-Hour Notice to enter to paint the ceiling. The Notice was dated November 1, 2023 and indicated that the entry would be on November 1, 2023. Ms. Wang testified that she stayed at the Affected Unit waiting all day for the painters to come, but no one came. However, on the afternoon of November 1, 2023, Ms. Wang sent an email to Ms. Rao saying that she was not available for painting on November 1, 2023 and that she would send an email to schedule the painting.

39. On November 1, 2023, Property Manager posted a 24 Hour Notice for Entry indicating that a maintenance technician would be entering on November 2, 2023 to paint the bathroom ceiling. There is a handwritten notation on the Notice which says, “The resident they will contact us when to go in the unit.”

40. On November 3, 2023, Property Manager posted a Forty-Eight-Hour Notice for a pre-move-out inspection, with entry to be made on November 6, 2023. It was intended to be a notice for pest control inspection, but the wrong form of notice was posted. Ms. Wang was confused by it because she had not given notice that she would be moving out.

41. On November 6, 2023, a technician from Killroy Pest Control attempted to inspect the Affected Unit, but Ms. Wang refused entry.

42. On November 6, 2023, Property Manager served another Forty-Eight-Hour notice to enter the Affected Unit, in order to allow the pest control technician to inspect the Affected Unit on November 9, 2023. A pest control technician showed up on November 9 accompanied by Mr. [REDACTED], and Ms. Wang refused entry. Ms. Wang testified that two men attempted to enter the Affected Unit while she was there, and that she became frightened and called the police. By email of June 13, 2024 to the City Rent Stabilization Division, Ms. Wang explained that when she called the police, they told her it was a civil matter which had to be resolved in civil court. In an email of November 9, 2023 to Ms. Rao, Mr. Welter and others, complaining about the entry, Ms. Wang wrote, “To reiterate, no one can open my door without Shichao’s and my permission.”

43. On November 7, 2023, Mr. Rao posted a letter addressed to “Dear Resident,” stating that the City of Mountain View would be inspecting the Affected Unit on November 9, 2023 between 10:00 a.m. and 4:00 p.m. Respondent had requested the inspection after Ms. Wang complained to City of Mountain View Division of Fire and Environmental Safety Building Inspector James Olson (“Mr. Olson”) about the condition of the Affected Unit.

44. On the afternoon of November 7, 2023, Ms. Wang sent an email to Ms. Rao, Mr. Olson, and Mr. Welter requesting that the inspection be moved to that day for a half hour, as she did not know whether she would be available for the next two or three days. During testimony, Ms. Wang said that she was ill at that time. Ms. Wang then left a voicemail for Mr. Olson cancelling the inspection. She exchanged emails with Mr. Olson on the afternoon of November 9, 2023, in which she also said she was cancelling the inspection, saying that she would let him know when she wanted to do the inspection. She said that she was frightened because of the earlier attempted entry for the pest control inspection. Mr. Olson, citing Civil Code Section 1954(d)(1), told her that a landlord could enter with 24 hours’ notice.

45. Ms. Rao sent an email to Petitioner Shichao Wang on November 9, 2023, informing him that Ms. Wang had denied entry for the pest control inspection and the City inspection. In that email, Ms. Rao said that property management would communicate only with Petitioner since he was the legal occupant of the Affected Unit. This is consistent with Mr. Welter’s testimony that he had directed his staff to interact only with Petitioner, not with Ms. Wang. Mr. Welter also sent an email on February 8, 2024 to Ms. Wang stating that his staff were instructed not to communicate with her until she had her name added to the Lease. Additionally, he sent an email to Mr. Olson and the City Rent Stabilization Division Staff on March 12, 2024, stating that he had directed his employees not to communicate with Ms. Wang because her name was not on the Lease.

46. On December 15, 2023, Ms. Rao emailed Petitioner requesting his availability to reschedule the City inspection. No response was submitted.

47. On February 7, 2024, Property Manager posted a notice to enter in order to address the issue of “dirty water” in the Affected Unit. The date of entry was listed as February 8, 2024, but the date of the notice was mistakenly listed as February 7, 2020. The issue was caused by an emergency repair on the Property which required the water to be shut off for a short period of time. Ms. Wang submitted a photograph of a screenshot indicating that the water would be shut off for 15 minutes. The dirty water problem resolved itself after a short period. Ms. Wang sent an email to Ms. Rao on February 8, 2024 stating that the water was clean and that the appointment to repair the pipes should be cancelled.

48. On February 13, 2024, Property Manager posted a notice regarding inspection for pest control, with entry on February 14, 2024. The inspection occurred as noticed. A report from Kilroy Pest Control, dated February 14, 2023, states, “Inspected unit 507█. No visual signs of bedbugs during inspection.”

49. On February 14, 2024, Ms. Rao posted a Twenty-Four-Hour Notice to Enter on February 15, 2024 to supply necessary or agreed services. This was most likely for the City inspection ordered by the Hearing Officer that was scheduled for 12:00 p.m. The Notice erroneously listed the time as between 1:00 and 4:00 p.m.

50. A notice of entry dated March 11, 2024 was posted on March 12, 2024 for the purposes of doing the repairs required by the February 15, 2024 Inspection Report issued by Mr. Olson. Ms. Wang sent an email the night of March 11, 2024 while she was out of the country telling Property Manager that they were not permitted to perform any repairs until Ms. Wang returned.

51. On March 20, 2024, Ms. Wang sent an email to Ms. Rao stating that another notice had been posted on the door of the Affected Unit and that no one was allowed to enter until she returned from her trip. Ms. Wang testified that someone entered the Affected Unit on March 21, 2024, but Property Manager was not certain what that entry was for; she surmised it was part of a semi-annual inspection. Subsequently, Respondent submitted a Twenty-Four Hour Notice to Enter, dated March 20, 2024 for entry on March 21, 2024, with the purpose listed as to make necessary or agreed repairs. The Notice contained an added notation that it was posted so that work required in the Inspection Report issued by Mr. Olson could be completed.

52. On March 28, 2024, Ms. Rao sent an email to Mr. Olson to request a reinspection of the Affected Unit, as all repairs had been made. Mr. Olson emailed back on that same day, as follows: "As we have seen in the past the resident has refused entry to do inspections, as such I will provide you with some dates but the actual date for the inspection MUST be confirmed in writing from the resident."

53. Ms. Rao emailed Petitioner on March 28, 2024 with the dates proposed by Mr. Olson and told Petitioner that he needed to reply but that he need not be present for the inspection. Petitioner did not respond, and in a subsequent email conversation, Mr. Welter informed Mr. Olson that the Petitioner did not respond, and Mr. Olson said that he considered "all violations are corrected as no access has been given to verify." By email of April 16, 2024, Ms. Rao informed Petitioner that Mr. Olson considered the repairs complete because Petitioner did not respond to her prior email about the inspection.

54. Mr. Welter conceded in testimony that his staff made technical errors in posting some of the notices, but that these errors did not have any significant impact on getting the work done.

55. Ms. Wang believes that the various notices that contained errors were posted to harass her and to get her and Petitioner to move out. She believes that Property Manager and maintenance staff did not act professionally and were not responsive to her.

56. The Inspection Report from the February 15, 2024 inspection by Mr. Olson cites conditions that are related to the claims in the Petition. First, it states that: "Bathroom ceiling - there are visible and obvious painted surface areas of the ceiling and wall edge that have bubbled up.

Remove these damaged areas, allow to fully dry out before repairing and painting. (IPMC 304, 305)” Secondly, it states “Kitchen - P-trap leaks/wet pipe fittings, replace p-trap and gaskets.” With respect to the kitchen, the Inspection Report also requires caulking in the kitchen sink to be repaired as well as sealing around pipe penetrations. The Inspection Report also states that the “[r]ange cook top is not secure and can easily shift, have a repair technician locate the cause and correct.”

57. Petitioner filed a Notice Regarding Additional Occupant with the City Rent Stabilization Division on June 25, 2024.

## **VII. DISCUSSION**

### **Failure to Maintain Habitable Premises**

Under CSFRA Section 1710(b)(1), “[f]ailure to maintain a Rental Unit in compliance with governing health and safety and building codes, including but not limited to Civil Code Sections 1941.1 et seq. and Health and Safety Code Sections 17920.3 and 17920.10, constitutes an increase in Rent. A Tenant may file a Petition with the Committee to adjust the Rent downward based on a loss in rental value attributable to the Landlord's failure to maintain the Rental Unit in habitable condition.”

California Civil Code Section 1941 provides that a Landlord of a “building intended for the occupation of human beings must...put it into a condition fit for such occupation, and repair all subsequent dilapidations thereof, which render it untenable...”

Under California Civil Code Section 1941.1(a), “[a] dwelling shall be deemed untenable for purposes of Section 1941 if it substantially lacks any of the...affirmative standard characteristics [listed in that Code section] or is a residential unit described in Section 17920.3... of the Health and Safety Code...”

CSFRA Section 1710(b)(2) states that “[a] Tenant Petition filed pursuant to this Subsection must specify the conditions alleged to constitute the failure to maintain the Rental Unit in habitable condition and demonstrate that the Landlord was provided with reasonable notice and opportunity to correct the conditions that form the basis for the Petition.”

In bringing a Petition under Section 1710(b), the Tenant bears the burden of proof by a preponderance of the evidence. See CSFRA Section 1711(h) and Regulations Ch. 5, Section (G)(2) and (3).

### **Leak in Bathroom Ceiling**

Under CSFRA Section 1710(b)(2), a Petition alleging failure to maintain a rental unit in habitable condition must “demonstrate that the Landlord was provided with reasonable notice and opportunity to correct the conditions that form the basis for the Petition.”

Petitioner submitted a video dated October 28, 2023 of a steady leak dripping from the bathroom ceiling between the toilet and the shower. Ms. Wang notified Mr. Rao of the condition at approximately 9:00 p.m. on October 27, 2023.

On October 28, 2023, Respondent discovered that the leak was coming from the rental unit above the Affected Unit and was caused by a worn wax ring on the toilet in that rental unit. The ring was replaced on October 28, 2023, and the active leak was stopped.

On the afternoon of October 28, 2023, a maintenance technician, Mr. [REDACTED], went to the Affected Unit and opened an access hole in the ceiling in order to inspect the condition of the ceiling and to allow the area to dry. He put up a plastic bag belonging to Ms. Wang to cover the hole, which was intended to catch anything that fell from the hole after he left the Affected Unit while still allowing air to circulate.

Ms. Wang testified that when the maintenance technician opened the hole in the ceiling, debris and dirty water fell into the bathroom, damaging some personal possessions which had to be thrown away. Ms. Wang submitted a photograph dated October 28, 2023 of the dirt and debris that fell into the bathroom.

Ms. Wang notified Respondent during the night of October 27, 2023; Respondent traced the source of the leak on October 28, 2023; and Respondent performed necessary tasks in the Affected Unit to allow the accumulated water to escape and the ceiling to dry on October 28, 2023. Mr. [REDACTED] stated that he cleaned up all of the droppings from the ceiling before he left on October 28, 2023. The hole in the ceiling was aired out for two days and was filled in on October 31, 2023. At that time, Mr. [REDACTED] removed his tools and cleaned up the bathroom. The bathroom was painted on November 7, 2023. It would have been completed earlier, but Ms. Wang denied access to the Affected Unit.

Petitioner complained that Respondent did not address the ceiling leak within a reasonable time, thus creating an uninhabitable condition in the Affected Unit. Petitioner has not met his burden of proof that Petitioner provided a reasonable opportunity to Respondent to address the leak and that Respondent did not do so. This is not the case of a Landlord who ignores complaints about a ceiling leak for months until the ceiling collapses due to water saturation, or even of a Landlord who allows a leak to go unchecked causing walls to suffer from mold and moisture damage. Respondent reacted promptly after learning about the leak and reasonably went first to the upstairs rental unit to trace the source of the leak prior to opening the ceiling in the Affected Unit. It should be noted that the leak was reported on a Friday night, and the repairs were begun on the next day, a Saturday.

Petitioner complained about loss of use of the bathroom for three days. Ms. Wang testified that the leak continued through October 30, 2023, precluding her from using the bathroom. The evidence that she could not use the bathroom due to an ongoing leak was not persuasive. There was no video or other visual evidence of an ongoing leak after October 28, 2023 when the hole in the ceiling was opened and covered with a plastic bag. The ceiling was sufficiently dry to be



patched on October 31, 2023, thus indicating that the leak had stopped and the ceiling was aired out.

Petitioner also complained about the debris which fell into the bathroom of the Affected Unit and which was allegedly left by Respondent's staff when they completed the work. As Mr. Welter pointed out, the photographs that Petitioner submitted to support this allegation show a ladder in one and a dustpan in another, evidencing the fact that the maintenance technician had not completed his work when the photos were taken. However, it can be reasonably concluded that the maintenance technician was careless in not covering the areas under where he opened the hole in the ceiling *prior* to opening the hole, so as to avoid contaminating the bathroom and personal possessions with debris and water.

California Civil Code Section 1941.1(a)(6) requires that buildings "be kept in every part clean [and] sanitary." If a rental unit "substantially lacks" cleanliness and sanitariness due to an act or omission of the Landlord, it is deemed "untenantable." Additionally, International Property Maintenance Code Section 304.1 states that interior structures must be maintained in sanitary condition. The question arises as to whether this lack of cleanliness resulting from falling debris was "substantial." The photographs submitted by Petitioner demonstrate that the debris fell all over the floor, the toilet, and the bathtub, basically covering the entire bathroom. It is thus reasonable to conclude that the mess temporarily created a substantial lack of cleanliness and sanitariness. The maintenance technician could have anticipated that debris and water would fall from the ceiling when he opened the hole, and could have spread a tarp over the area of the bathroom under the hole to keep the bathroom clean and sanitary.

Finally, Petitioner argues that Respondent did not properly repair the leak because the wall showed bubbles and buckling after the repairs, indicating water damage. Citing to International Property Maintenance Code ("IPMC") Sections 304 and 305, the Inspection Report states, "Bathroom ceiling - there are visible and obvious painted surface areas of the ceiling and wall edge that have bubbled up. Remove these damaged areas, allow to fully dry out before repairing and painting." IPMC Section 304.1 states that interior structures must be maintained in good repair and in sanitary condition. It can be reasonably concluded from the evidence of water damage that the repairs were not done in a proper manner. However, the bubbling in the walls had no real impact on Petitioner other than the fact that it was not aesthetically pleasing. It did not cause mold to grow on the walls, nor did it result in the walls decaying. Thus, there is no justification for a rent reduction for this condition; however, Respondent might want to take note of the fact that the area was not properly repaired.

Petitioner is entitled to a rent reduction for the condition of the bathroom only as a result of the initial carelessness of the maintenance technician in allowing the debris and dirty water to fall into the bathroom, causing a temporary but substantial lack of cleanliness and sanitation. The maintenance technician wrote that he cleaned the bathroom on October 28, 2023 and cleaned as best he could when he finished up on October 31, 2023. While the bathroom was ostensibly out of service only on October 28, 2023 when work was being done, because of the nature of

the mess that poured out of the ceiling, the bathroom ought to have been properly deep-cleaned and sanitized, which was not done.

Rent reductions for unsafe or unhealthy conditions are generally determined in one of two ways: calculating the difference between the fair rental value of the Affected Unit if it had been as warranted and the fair rental value of the Affected Unit as it is currently with the existing conditions, or by a percentage reduction in use, which would involve reducing Petitioner's rental obligation by a percentage corresponding to the relative reduction of use of the Affected Unit caused by the unsafe or unhealthy conditions. (*See, Green v. Superior Court*, 10 Cal.3d 616, 638, 639 fn. 24 (1974).) In this particular situation, there has been no expert testimony as to the fair rental value with and without the habitability issues, making the fair rental value methodology difficult to apply. This leaves the percentage reduction in use method.

The bathroom is one of four rooms in the Affected Unit; each room is reasonably worth 25 percent of the total monthly rent. It would have been reasonable for Respondent to have deep-cleaned and sanitized the bathroom on October 28, 2023 after the debris fell or at the latest after the work was completed on October 31, 2023, which they did not do. Therefore, Petitioner is entitled to a rent reduction for three days of having an unsanitary bathroom.<sup>1</sup> A rent reduction for three days would be calculated as  $((\$2,195.00 \times .25)/31) \times 3 = \$53.10$ . Therefore, Petitioner is entitled to a rent reduction of \$53.10 for the leak in the bathroom ceiling.

### Mold

Petitioner claims that there was mold under the kitchen counter and in a gap next to the refrigerator. Petitioner also claims that there was mold on the bathroom counter and below the sink in the bathroom. Petitioner has not met his burden of proof on the mold issue. The photos submitted by Petitioner are not conclusive as to what the substance is on the surfaces, and the Code Enforcement Inspector did not observe mold in the Affected Unit.<sup>2</sup> There is also no mention of mold on the Move-In/Move-Out form that Petitioner filled out on July 31, 2023, although the Petition alleges that the mold was present on June 26, 2023. There is also no mention of mold on the September 6, 2023 handwritten list of conditions in the Affected Unit, nor is it mentioned in the September 8, 2023 letter to Angee Jensen. All of those documents characterize the condition as dirt. The first written mention of mold is in the September 29, 2023 email to Ms. Rao. The October 9, 2023 service order and the December 30, 2023 statement of Mr. [REDACTED] as well as the January 4, 2024 statement of Ms. [REDACTED] indicate that what Petitioner is characterizing as mold was actually dirt in somewhat obscure places such as the underside of countertops, between the refrigerator and the wall, and underneath the refrigerator. The weight of the evidence supports the conclusion that there was no visible mold

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<sup>1</sup> Ms. Wang testified that she cleaned the bathroom herself after the work was done.

<sup>2</sup> This is a prerequisite to establishing a habitability issue with respect to mold, pursuant to California Health and Safety Code Section 17920.3(a)(13); under that code section, a habitability issue exists if there is "[v]isible mold growth, as determined by a health officer or a code enforcement officer, ... excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use."

in the Affected Unit. Because Petitioner has not met his burden of proof that there was visible mold growth that endangered the health or safety of occupants, there is no downward adjustment of rent for this issue.

#### Water Leak Under Bathroom Sink

While Petitioner has not proven that there is mold under the bathroom sink, the Petition states that there is also a leak under the bathroom sink which has been there since Petitioner moved in. A photo submitted by Petitioner shows evidence of a water stain under the sink. The Petition alleges that Ms. Wang informed Ms. Rao of the condition on June 27, 2023. The email of September 29, 2023 from Ms. Wang to Ms. Rao states, “We have been showing the problems to your company since June 28, 2023. Jenny follow up a few times for the cleaning issue also something need to fix, but nobody showed up to do the work. You provided me with a unit was not habitable. I have endured this condition for a very long time.” The email lists needed repairs, one of which is the leak under the bathroom sink. The October 9, 2023 service order submitted by Respondent indicates that repairs were made on October 13, 2023 and that Petitioner approved the repairs. The December 30, 2023 memorandum from Mr. [REDACTED] states that he inspected the area under the bathroom sink but did not see evidence of a leak and did not smell any odor. The memo states that “the gap near the drain line was filled and repaired.”

The Move In/Move Out form signed by Petitioner did not mention a leak under the bathroom sink, nor did the September 6, 2023 handwritten list of repairs or the September 8, 2023 letter to Ms. Jensen. It appears that the first mention of the leak is in the September 29, 2023 email to Ms. Rao. Ms. Wang testified that there is a water stain under the bathroom sink. There is nothing about a leak under the bathroom sink in the Inspection Report.

The evidence suggests that the water stain under the bathroom sink is an old stain and that there is no active leak. If in fact there were a leak, Petitioner did not call it to the attention of Respondent until the September 29, 2023 email. Respondent’s maintenance technician did not see evidence of a leak, but he patched the gap near the drain line anyhow on October 13, 2023. Thus, if there were a leak, it was repaired within a short time after notice was provided.<sup>3</sup> The evidence presented does not prove the existence of a habitability issue.

#### Bedbugs

Petitioner submitted photos of Ms. Wang’s legs with what look like bites on them. Petitioner did not submit any reliable proof that these bites are bed bug bites; for example, a doctor’s report. By email of May 3, 2024 to Joann Pham of the City Rent Stabilization Division, Ms. Wang admitted that the technician from Kilroy Pest Control did not find evidence of bed bugs in the Affected Unit; however, she disputed that he had tried hard enough. Ms. Wang reiterated her skepticism in her testimony at the Hearing.

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<sup>3</sup> CSFRA Section 1710(b)(2) requires as a prerequisite to entitlement to a downward adjustment of rent that the Petitioner allow the Respondent a reasonable opportunity to repair the alleged defect.

Respondent was first notified of the bed bugs when the Original Petition was filed on October 23, 2023. Respondent served an improper notice of entry to inspect for bed bugs on November 3, 2023. The notice of entry said that it was for a pre-move-out inspection, which led Petitioner to believe that Respondent was trying to force her out of the Affected Unit. Property Manager served another 48-hour notice on November 6, 2023, setting the inspection date for November 9, 2023. As stated in an email of November 9, 2023, Ms. Wang would not let the pest control technician in because she was ill. Ultimately, entry was allowed on February 14, 2024 at which time the pest control technician concluded that there was no visible evidence of bed bugs.

Given that there is no concrete proof of bed bugs, Petitioner has failed to meet his burden of proof that there is a bed bug infestation in the Affected Unit.

#### Peeling Bathroom Sink

Petitioner submitted a photograph of a small patch of peeling paint in the bathroom sink. It is not mentioned in the Inspection Report.

Under International Property Maintenance Code Section 504.1, “[p]lumbing fixtures shall be...maintained in good working order...and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.”

This situation is not equivalent to a bathtub which is unusable for bathing because the paint is peeling, and it is rusting. The bathroom sink is still functional and presents no safety issues. Thus, there is no habitability issue presented by the bathroom sink; however, Respondent might consider refinishing it as a good maintenance practice. The Inspection Report additionally mentioned that the bathtub drain flange has peeling finish on it. Respondent might also consider replacement of that part as a good maintenance practice.

#### Toilet (Clog and Slowly Filling Tank)

##### 1. Toilet Clog

The Petition states that on October 13, 2023, when a maintenance technician filled in the gap near the drain line under the bathroom sink, he disposed of the excess amount of the substance used as filler around the pipes by putting it in the toilet. Ms. Wang immediately found Mr. [REDACTED] and asked him to remove the substance, which he did. The Petition states, “I feel like this was done on purpose to cause more issues in my unit.” Ms. Wang testified that, while she thought at the time that Mr. [REDACTED] had resolved the issue, the toilet was clogged for seven or eight hours. She did not report this problem to Respondent, and she and her son and a friend repaired it themselves.

Given that Petitioner did not notify Respondent of the clog nor give them an opportunity to repair it as required by CSFRA Section 1710(b)(2), it does not fall within CSFRA Section 1710(b)(1), and no downward adjustment of rent may be awarded. However, it does evidence

possible carelessness on the part of the maintenance technician, of which Respondent may take note.

## 2. Tank Filling Slowly

The Petition states that this condition developed on October 27, 2023. Ms. Wang testified that she believes it was related to the clog in the toilet. There is nothing in the Inspection Report about a problem with the toilet. Ms. Wang indicated in her testimony that she was no longer complaining about this issue, that it had resolved itself. Thus, it does not merit a downward adjustment of rent.

## Kitchen Sink (Smell and Leak)

### 1. Smell in Kitchen Sink

The Petition states that the kitchen sink has a chemical odor and has dirty lines in it. Ms. Wang testified that upon move-in, she noticed that there was a smelly rag that was left in the kitchen sink. She said that when she disposed of the rag, the smell went away. There was no evidence submitted of “dirty lines” in the kitchen sink, and there is no mention of a problem with the condition of the kitchen sink in the Inspection Report. Therefore, this issue does not merit a reduction in rent because it does not rise to the level of a habitability issue.

### 2. Leak Under Kitchen Sink

Petitioner submitted photographs with the Petition on which it was annotated, “[t]here is leaking water coming from the kitchen sink, it has created a strong smell of mold.” Ms. Wang testified that Petitioner keeps a cardboard box under the kitchen sink to catch the dripping water. There was no mention of a leaking kitchen sink in the Move In/Move Out form, the September 6, 2023 handwritten list of conditions, the September 8, 2023 letter to Ms. Jensen, or the September 29, 2023 email to Ms. Rao. Thus, it appears that the first notice to Respondent of this condition was in the photographs submitted with the Petition, which are considered a part of the Petition.

The Inspection Report pointed out three issues with the kitchen sink. It states that “[t]here are areas of the recent caulking of the sink the counter edge, that has formed gaps during curing. Have your maintenance team apply caulking where the gaps have formed.” It directs Respondent to “seal around all pipe penetrations.” Citing to International Property Maintenance Code Section 504.1, it says “P-trap leaks/wet pipe fittings, replace p-trap and gaskets.” The Inspection Report specifically says that the P-trap leaks and that the pipe fittings are wet. That condition could account for the leak and the smell that the Petition complains of; rather than mold, the smell could have been from sewer odors and/or gases leaking from the P-

trap.<sup>4</sup> Given the Inspection Report's conclusions, Petitioner's allegations that there was a leak and a smell under the kitchen sink are credible.

International Property Maintenance Code Section 504.1, as cited by the Code Enforcement Inspector, states in pertinent part that "[p]lumbing fixtures shall be properly installed and maintained in good working order, and shall be kept free from obstructions, leaks, and defects...Plumbing fixtures shall be maintained in a safe, sanitary and functional condition." California Civil Code Section 1941.1(a)(2) requires that a "dwelling shall be deemed untenantable...if it substantially lacks...(2) Plumbing...maintained in good working order." California Health and Safety Code Section 17920.3(a) states that in order not to be deemed a substandard dwelling, plumbing must be "in good and safe condition and working properly." The pipes under the kitchen sink were not maintained in good condition; they leaked and emanated a noxious smell.

As mentioned above, CSFRA Section 1710(b)(1) states that "[f]ailure to maintain a Rental Unit in compliance with governing health and safety and building codes, including but not limited to Civil Code Sections 1941.1 et seq. and Health and Safety Code Sections 17920.3..., constitutes an increase in Rent." Therefore, Petitioner is entitled to a downward adjustment of rent for this issue.

As discussed earlier, rent reductions for unsafe or unhealthy conditions are generally determined in one of two ways: calculating the difference between the fair rental value of the Affected Unit if it had been as warranted and the fair rental value of the Affected Unit as it is currently with the existing conditions, or by a percentage reduction in use, which would involve reducing Petitioner's rental obligation by a percentage corresponding to the relative reduction of use of the Affected Unit caused by the unsafe or unhealthy conditions. (*See, Green v. Superior Court*, 10 Cal.3d 616, 638, 639 fn. 24 (1974).) In this particular situation, as discussed earlier, it is only feasible to use the percentage reduction in use method.

While the leaking was inconvenient and unpleasant, it did not keep Petitioner from using the kitchen sink. Therefore, it does not call for a large rent reduction. As discussed, the Affected Unit has four rooms, and it is reasonable to consider each room as worth 25 percent of the monthly rent. In the kitchen, each appliance or component is worth a percentage; i.e., the stove/oven, sink, refrigerator, and dishwasher are reasonably worth 25 percent each of the 25 percent value of the entire kitchen. This would mean that the sink would be worth  $.25 \times .25$ , or .0625 percent of the monthly rent. Since the sink is essentially useable despite the leak, it is reasonable to reduce the total percentage reduction to three percent (.03) of the monthly rent.

Respondent was notified of this condition on November 7, 2023, when the Petition was filed and served. The condition was repaired on or about March 21, 2024. Thus, a period of four

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<sup>4</sup> See, e.g., <https://www.oatey.com/faqs-blog-videos-case-studies/blog/what-p-trap-and-how-does-it-work#:~:text=A%20specialized%20fitting%20called%20a,from%20tubs%2C%20showers%20and%20sinks> and <https://www.thespruce.com/the-purpose-of-a-drain-trap-2718770>.

months and 14 days passed before this condition was remedied. The monthly rent during this period was \$2,195.00. The total downward adjustment of rent is calculated as  $((\$2,195.00 \times .03) \times 4) + (((\$2,195.00 \times .03)/31) \times 14) = \$293.14$ . Petitioner shall receive a reduction of rent in the amount of \$293.14 for the leaking kitchen sink.

### Stove

In the September 6, 2023 handwritten letter that Ms. Wang delivered to the property management office by depositing it in the box used for collection of rent checks, she wrote that “the stove (shaking, dirty, old). Need change new one.” In the September 29, 2023 email to Ms. Rao, Ms. Wang wrote that “[s]tove is not fully functional.” As Mr. Welter and Ms. Rao testified, requests for repairs were required to be submitted through the website or otherwise to be in writing. Ms. Wang’s written communications of September 6, 2023 and September 29, 2023 were sufficient to put Respondent on notice that there was something wrong with the stove top.

The Inspection Report, citing International Property Maintenance Code Section 603, states, “[t]he range cook top is not secure and can easily shift, have a repair technician locate the cause and correct.” This is most likely what Ms. Wang was referring to when she wrote that the stove was shaking and not fully functional.

International Property Maintenance Code Section 603 states that “Mechanical equipment, appliances,...cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.” A range top that is not properly secured and can easily shift is not capable of performing its intended function and presents a safety issue.

As stated earlier, under CSFRA Section 1710(b)(1), “[f]ailure to maintain a Rental Unit in compliance with governing health and safety and building codes...constitutes an increase in Rent.” Petitioner is entitled to a downward adjustment of rent for this issue.

The appropriate time period is from September 6, 2023 to March 21, 2024, a period of six months and 15 days. There are four components or appliances in the kitchen, the stove/oven, refrigerator, dishwasher, and sink, each of which is worth 25 percent of the total 25 percent value of the kitchen. The stovetop is worth half of the value of the entire stove and oven, or 12.5 percent of the total 25 percent of the value of the kitchen, which amounts to 3.1 percent of the total monthly rent  $(.125 \times .25 = .031)$ . The total downward adjustment of rent for this condition is calculated as  $((\$2,195.00 \times .031) \times 6) + (((\$2,195.00 \times .031)/31) \times 15) = \$441.20$ . Petitioner shall receive a reduction of rent in the amount of \$441.20 for the malfunctioning stove.

The total amount of the downward adjustment of rent for habitability issues is  $\$53.10 + \$293.14 + 441.20$ , which equals \$787.44.

### Housing Services

Pursuant to CSFRA Section 1710(c), “[a] decrease in Housing Services or maintenance, or deterioration of the Rental Unit beyond ordinary wear and tear, without a corresponding reduction in Rent, is considered an increase in Rent. A Tenant may file a Petition to adjust the Rent downward based on a loss in rental value attributable to a decrease in Housing Services or maintenance or deterioration of the Rental Unit. The Petition must specify the circumstances alleged to constitute a decrease in Housing Services or maintenance, and demonstrate that the Landlord was provided with reasonable notice and an opportunity to correct in like manner to Petitions filed pursuant to Subsection 1710(b)(2) herein.”

CSFRA Section 1702(h) defines “Housing Services” as including “but... not limited to, repairs, maintenance, ...window shades and screens, ... laundry facilities and privileges, ... and any other benefit, privilege or facility connected with the use or occupancy of any Rental Unit. Housing Services to a Rental Unit shall include a proportionate part of services provided to common facilities of the building in which the Rental Unit is contained.”

### Dishwasher

A dishwasher is a Housing Service because it constitutes a “benefit or privilege...connected with the use or occupancy of any Rental Unit.” The Petition alleged that the dishwasher had a chemical odor and was extremely dirty. The Petition said that Petitioner has spent over 10 hours cleaning the dishwasher, and Ms. Wang testified that she washed the dishwasher three times in order to get the smell out of it. The Inspection Report simply says that “[t]he dishwasher remains not used, verify if it is operating properly.” There is no mention by the Code Enforcement Inspector of an odor or extreme dirt. The photos submitted by Petitioner indicate that the dishwasher demonstrates evidence of ordinary wear and tear, but it is not dilapidated; i.e., it appears that it should serve its function.

It should be noted that each individual has different standards of cleanliness. The Hearing Officer can only judge what a reasonable person would object to. There has been no evidence presented that a reasonable person would not be able to use the dishwasher. Therefore, there is no downward adjustment of rent for this issue.

### Blinds

The definition of Housing Services in CSFRA Section 1702(h) specifically mentions “window shades,” and blinds fall into the category of window shades. Respondent was put on notice about some blinds being “cracked” in the living room and bedroom by means of the Move In/Move Out form, which Petitioner signed on July 31, 2023 and Mr. Rao signed on August 24, 2023. Mr. Welter specifically testified that if broken blinds were listed in the Move In/Move Out form, they would be considered by property management as a condition needing repairs. Therefore, the blinds should have been repaired shortly after August 24, 2023. Instead, they



were not repaired until October 13, 2023, when two slats in the living room blinds were replaced. There is no mention of the bedroom blinds, and the Petition indicates that the blinds were repaired on October 13, 2023, so the bedroom blinds appear to no longer be an issue.

The failure to repair the blinds constitutes a decrease in Housing Services. At move-in, the blinds were supposed to be in good condition; leaving them in a broken condition evidences a reduction of the level of repairs that Mr. Welter testified were supposed to be performed.

The relevant time period is from August 24, 2023 to October 13, 2023, which constitutes one month and 20 days. The value of the two slats in the blinds is reasonably calculated as worth one percent of the 25 percent value of the living room, or  $.25 \times .01$ , which equals .003 percent of the monthly rent. The total rent reduction for this decrease in a Housing Service is calculated as  $((\$2,195.00 \times .003) \times 1) + (((\$2,195.00 \times .003)/31) \times 20) = \$10.83$ . Petitioner shall receive a rent reduction of \$10.83 for failure to repair the blinds in a timely manner.

#### Laundry card

There was contradictory testimony as to whether Petitioner received a laundry card at move-in. Ms. Wang testified that she did not receive one until August 21, 2023, whereas Mr. Welter testified that all tenants receive a laundry card at move-in. Given Mr. Rao's numerous careless clerical errors in filling out notice of entry forms, it is not inconceivable that he forgot to give a laundry card to Petitioner at move-in. As it turns out, Petitioner ultimately received two laundry cards, not just one, and, despite not having a laundry card, Petitioner had access to the laundry room and could have purchased a laundry card in the office.

It is not necessary to reconcile the contradictory facts because a laundry card is not a Housing Service. While a laundry *facility* is a Housing Service, the service provided by Respondent to Petitioner in giving him a laundry card, which would normally cost \$5.00, is simply a one-time gratuity. In fact, Petitioner ended up receiving a bonus because he received two laundry cards rather than the usual one. Therefore, there is no downward adjustment of rent for this issue.

#### Inadequate Cleaning Service Prior to Move-In

Petitioner made numerous complaints about the dirty condition of the Affected Unit early in the tenancy. The Move In/Move Out form points out a dirty kitchen sink; a kitchen counter top with "black gunk" on it; a "greasy" stove; the living room floor, presumably the carpet, with "some dirt"; a dirty exhaust fan and vent; and dirty blinds. Ms. Wang complained of the dirtiness of the Affected Unit on June 27, 2023, and Ms. Rao connected her with Respondent's cleaning contractor. The September 6, 2023 handwritten list mentions cleaning that needs to be done, as does the September 8, 2023 letter. Ms. Wang was assured by Mr. Rao and Ms. Rao that additional cleaning would be performed, but it was not done. The facts are contradictory as to why the additional cleaning did not happen.

Evidence was presented that the Affected Unit was cleaned prior to Petitioner's move-in. Once again, everyone has different standards for what they consider acceptable with respect to

cleaning. Most likely, a “deep cleaning,” i.e., an attempt to bring the Affected Unit to a pristine condition, as if it were new, was not done, but a reasonable amount of cleaning was performed.

The additional cleaning that Respondent promised to Ms. Wang does not constitute a Housing Service but rather a one-time accommodation. If as part of a rental agreement, a landlord promises to clean a rental unit every other week and then ceases to do so, that would be a decrease in a Housing Service. It was shown that cleaning was performed prior to when Petitioner moved in, and a Move In/Move Out form was provided so that when Petitioner moves out, he will not be responsible for cleaning that was not done up to his specifications. A promise to clean the Affected Unit one more time to placate Ms. Wang does not qualify as a Housing Service. If the Affected Unit were delivered by Respondent to Petitioner in such an unsanitary condition as to amount to a habitability issue, then Petitioner would be entitled to a downward adjustment of rent. But as discussed earlier, the Affected Unit was cleaned prior to move-in and was not presented to Petitioner in an unsanitary condition. As a result, a downward adjustment of rent for this condition cannot be awarded.

Pursuant to CSFRA Section 1714(f), the remedies provided for in the CSFRA are not exclusive, and, should Ms. Wang so desire, she may seek redress in another forum should she believe that Respondent has not performed a promise with respect to cleaning.

The total rent reduction for a decrease in Housing Services is \$10.83.

#### Allegations of Retaliation/Harassment

Ms. Wang testified and stated in the Petition that she believes Property Manager’s behavior towards her was intentionally motivated by a desire to force her and Petitioner to move out of the Affected Unit. She cited as examples the incorrect notices of entry which she believes were designed to make it look like she was not permitting entry to make repairs and the fact that Property Manager did not communicate with her prior to the water being shut off on February 8, 2024.

Additionally, Mr. Welter testified at the Hearing and stated in writing that he plans on issuing an eviction notice as soon as possible because Ms. Wang is not on the lease and has stayed longer than visitors are allowed. He also stated in writing and in testimony that he directed his staff not to communicate with Ms. Wang and only with Petitioner.

CSFRA Section 1705(d) prohibits “action to terminate any tenancy or otherwise recover possession of a Rental Unit in retaliation for the Tenant...exercising rights granted” under the CSFRA.

The Hearing Officer does not have jurisdiction to determine whether there has been retaliation under the CSFRA or under State law. Thus, the issue of whether the incorrect notices of entry were intentional or the result of carelessness on the part of Mr. Rao or Ms. Rao cannot be addressed for this purpose. Similarly, the issue of whether Property Manager rightly or wrongly did not communicate with Ms. Wang and whether Ms. Wang was informed that communication

should go through her son cannot be considered at this time. Also, the question of whether Mr. Rao threatened Ms. Wang with eviction and whether Ms. Rao told Ms. Wang to move out because she does not like her do not fall within the jurisdiction of the Hearing Officer. Should she so desire, Ms. Wang may pursue these issues in another forum pursuant to CSFRA Section 1714(b).

#### Eligible Family Members as Tenants

Mr. Welter testified that he believed that Petitioner is in breach of the Lease because Ms. Wang has not been added to the Lease and has stayed at the Affected Unit for longer periods of time than are allowed under the Lease. He said that he is willing to add Ms. Wang to the Lease, provided that she fills out an application and provides identification. The reason that he has directed his staff not to communicate with Ms. Wang is because she is not on the Lease.

Under CSFRA Section 1705(a)(2)(B), which is entitled “Protections for Families,” “a Landlord shall not take any action to terminate a tenancy as a result of the addition to the Rental Unit of a Tenant’s child, parent, grandchild...so long as the number of occupants does not exceed the maximum number of occupants as determined under Section 503b of the Uniform Housing Code...”. There is no mention in that section about addition to the Lease, only “addition to the Rental Unit.”

CSFRA Regulations Ch. 9, Section D states that “[a] Housing Provider...may...request **reasonable documentation** verifying the Eligible Family Member-status of any Additional Occupant. Reasonable documentation may include...government- or educational institution-issued identification, a birth or marriage certificate, or domestic partnership registration...Any dispute regarding the validity of verifying documentation under Section D.2 of this Chapter 9 shall be resolved based on the reasonableness of the document for purposes of verifying Eligible Family Member Status to a Housing Provider” (*emphasis added*). An Eligible Family Member is defined in CSFRA Section 1705(a)(2)(B) and Regulations Ch. 9 Section B(2) as “[A] Tenant’s child, parent, grandchild, grandparent, brother, or sister, or the spouse or domestic partner...of such relatives, or...the spouse or domestic partner of a Tenant.”

The reasonable documentation described in Regulations, Ch. 9, Section D is intended to serve the purpose of verifying that the person moving in to the Rental Unit is in fact “a Tenant’s child, parent, grandchild, grandparent, brother, or sister...”, etc. (CSFRA Section 1705(a)(2)(B), and Regulations, Ch. 9, Section (B)(2)). The documentation must be reasonable for its intended purpose of verifying the relationship between the Tenant and the Eligible Family Member. *See*, Regulations Ch. 9, Section D.

No evidence was presented that Petitioner attempted to declare Ms. Wang an Eligible Family Member under CSFRA Regulations, Ch. 9, Section (D)(1) prior to the Hearing,<sup>5</sup> and Petitioner has

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<sup>5</sup> Petitioner submitted a Notice of Additional Occupant on June 25, 2024, almost a month after the Hearing.

not challenged any rejection by Respondent of Ms. Wang's Eligible Family Member status, so that issue is not before the Hearing Officer.

However, it should be noted that as long as a tenancy exists between Respondent and the occupants of the Affected Unit, Respondent must fulfill the duties of a landlord, such as maintaining the Affected Unit in habitable condition and providing Housing Services. This duty exists regardless of the manner in which Respondent becomes aware of the need for repairs in the Affected Unit and regardless of whether Respondent or Property Manager like the occupants of the Affected Unit or whether the occupants of the Affected Unit are difficult to deal with.

On the other hand, a Tenant also has responsibilities and duties, such as allowing access to a rental unit for repairs if proper notice is provided, as set forth in California Civil Code Section 1954. Given that a decision has been reached without the need for considering whether Ms. Wang and Petitioner were obstructionist with respect to allowing repairs, the Hearing Officer will refrain from making that determination. However, Petitioner is reminded that under California law and the CSFRA, failing to allow a Landlord access to a rental unit to make repairs may be considered a breach of the lease and grounds for eviction. See, CSFRA Section 1705(a)(5); Cal.Civ.Code §1954.

#### **VIII. CONCLUSIONS OF LAW**

1. Respondent failed to maintain habitable premises under CSFRA Section 1710(b) by (a) failing to protect the bathroom from debris and water when cutting a hole in the ceiling and failing to sanitize it thereafter; (b) failing to promptly repair a leak under the kitchen sink; and (c) failing to promptly repair the range stovetop.
2. Petitioner suffered a decrease in Housing Services pursuant to CSFRA Sections 1702(h) and 1710(c) because Respondent failed to promptly repair the blinds in the living room.

#### **IX. DECISION**

1. Respondent shall refund to Petitioner the amount of \$787.44 for failure to maintain the Affected Unit in a habitable condition.
2. Respondent shall refund to Petitioner the amount of \$10.83 for decreases in Housing Services.
3. Respondent shall refund to Petitioner the total amount of \$798.27. All payments ordered in this Decision are set forth in Attachment 1, Award Schedule, appended hereto.
4. In the event that Petitioner does not receive full payment of \$798.27 from Respondent as ordered in this Decision on or before October 15, 2024, Petitioner shall be entitled to withhold rent payments until such time as he has withheld a total of \$798.27, less any sums Respondent has paid directly to him pursuant to this Decision. Petitioner may refer to Attachment 1, Award Schedule, appended hereto, for a Credit Schedule setting forth the amounts he may withhold.

As set forth in Paragraphs 8 and 9, below, Respondent may not issue a rent increase to Petitioner until Petitioner has received from Respondent all amounts ordered by this Decision to be paid.

5. In the event that this Decision is appealed, the final appeal decision shall include an updated refund schedule as applicable. Additionally, if this Decision is appealed, pending the outcome of the appeal, this Decision will not be considered final, and Petitioner shall continue to pay the monthly rent of \$2,195.00 until the appeal decision is final.

6. In the event that either Petitioner or Respondent terminates Petitioner's tenancy for any reason prior to delivery of the payments ordered by this Decision, the total amount then owed shall become due and payable to Petitioner immediately and if said amount is not paid, Petitioner shall be entitled to a money judgment in the amount of the unpaid payments in an action in court or any other administrative or judicial or quasi-judicial proceeding.

7. The payments and credits to Petitioner as set forth herein shall be enforceable as to any successor in interest or assignees of Respondent.

8. Subject to Paragraph 9, below, and pursuant to CSFRA Sections 1706(a), (b) and 1707(c), (f), Respondent may not issue a Rent increase for the Affected Unit until (1) all refunds due to Petitioner are fully paid, and (2) Respondent has provided written notice to Petitioner of the rent increase at least 30 days in advance of such increase in the manner prescribed by the CSFRA and California law. It should be noted that CSFRA Regulations Ch. 7, Section (B)(1) requires that a notice in substantially the same form as that promulgated by the Rental Housing Committee must be served on Tenants for all rent increases.

9. In addition to abiding by the requirements of Paragraph 8, above, Respondent may not issue a rent increase for the Affected Unit if Respondent is in violation of any of the provisions set forth in CSFRA Section 1707(f)(1)-(3) and CSFRA Regs. Ch. 12, Section (B), which require substantial compliance with the CSFRA and include, among other things, charging only lawful amounts of rent, registering the Property annually with the Rent Stabilization Program (see CSFRA Regs. Ch. 11), refunding all unlawfully charged rents for all Tenants, and maintaining the Property in habitable condition according to state law and the CSFRA, including making all repairs ordered hereunder or required by the City Building Department or other department of the City of Mountain View as a result of Multi-Family Housing Program Inspections. Only when Respondent has complied with all of the provisions of this paragraph and paragraph 8, above, may Respondent issue a rent increase, provided that they do so in a manner consistent with the CSFRA and California law.

10. 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.



Barbara M. Anscher, Hearing Officer

Date: September 23, 2024

## Hearing Officer Decision re Failure to Maintain Habitable Premises and Reduction in Housing Services or Maintenance

Habitability/Housing Service Reduction Issue	Month/Year Issue Began	Month/Year Issue Resolved	Number of Months Issue Persisted	Monthly Rent	Percentage of Rent Reduction	Total Rent Reduction Awarded
Leak in bathroom ceiling	10/28/2023	10/31/2023	0.10	\$ 2,195.00	25.000%	\$ 53.10
Mold	n/a	n/a	n/a	\$ 2,195.00	0.000%	\$ -
Leak under bathroom sink	n/a	n/a	n/a	\$ 2,195.00	0.000%	\$ -
Bedbugs	n/a	n/a	n/a	\$ 2,195.00	0.000%	\$ -
Leak under kitchen sink	11/7/2023	3/21/2024	4.45	\$ 2,195.00	3.000%	\$ 293.14
Stove	9/6/2023	3/21/2024	6.50	\$ 2,195.00	3.100%	\$ 441.20
Dishwasher	n/a	n/a	n/a	\$ 2,195.00	0.000%	\$ -
Blinds	8/24/2023	10/13/2023	1.63	\$ 2,195.00	0.003%	\$ 10.83
Laundry card	n/a	n/a	n/a	\$ 2,195.00	0.000%	\$ -
<b>TOTAL</b>						<b>\$ 798.27</b>

## Credit Schedule

Month/Year of Rent Payment	Unpaid Rent Owed to Landlord	Rent Credited to Petitioner	Total Payment to be Paid by Petitioner
11/1/2024	\$ 2,195.00	\$ 798.27	\$ 1,396.73
<b>TOTAL</b>		<b>\$ 798.27</b>	