COMMUNITY
LEGAL SERVICES
IN EAST PALO ALTO

1861 BAY ROAD
EAST PALO ALTO, CA 94303
PHONE: (650) 326 6440
FAX: (866) 688 5204
www.clsepa.org

July 21, 2025

Via E-Mail Only
Rent Stabilization Division
Housing Department, City of Mountain View
patricia.black@mountainview.gov
Cc: Respondent's Counsel, Andrew Van Slyke ([redacted])

RE: Petitioner's Reply to Tentative Appeal Decision on Petitions C24250022 and C24250023

Dear Rental Housing Committee:

Ms. Mary Ann Washington (hereinafter referred to as "Petitioner") submit this letter brief in preparation for the hearing on the Request for Appeal to take place on July 24, 2025 at 7:00 PM. The Request for Appeal was submitted by SI VI, LLC (hereinafter referred to as "Respondent" or "Landlord") pursuant to the Mountain View Community Stabilization and Fair rent Act (the "CSFRA").

Upon review of the Committee's Tentative Appeal Decision, Petitioner respectfully requests: (1) the Rental Housing Committee adopt the Tentative Appeal Decision as related to the clogged toilet and the consistency of the Hearing Officer's methodology for calculating the awards in her decision, and (2) the Rental Housing Committee upholds the Hearing Officer's decision as related to the leaky dining room window.

I. The Tentative Appeal Decision Should Be Adopted as Related to the Clogged Toilet and the Hearing Officer's Consistent and Proper Award Methodologies.

The Tentative Appeal Decision correctly upholds the Hearing Officer's Decision as related to the Clogged Toilet and the Hearing Officer's overall award methodology.

A. Clogged Toilet

The CSFRA was enacted to promote "community stability [and] healthy housing" for renters in the City of Mountain View. (CSFRA § 1700.) To that end, the Tentative Appeal Decision acknowledges that a landlord must make efforts to eliminate an uninhabitable condition (or at least reduce it to a *de minimis* level). (Tentative Appeal Decision ("TAD"), p. 5.) It is insufficient for a landlord to simply *make attempts* to correct a condition while allowing the

condition to persist. (TAD, p. 5.) Such a standard would be contrary to the CSFRA's intended purpose of promoting "healthy housing." (CSFRA § 1700.)

Respondent seemingly argues that a toilet clogging every day is an "intermittent and temporary" condition, rather than appreciating this as a larger issue that remains unaddressed with the larger plumbing system. (Respondent Appeal, p. 2.) It cannot reasonably be understood that having to unclog a toilet every day is considered adequately "fix[ing] the problem". (*Id.*) The Hearing Officer explained the landlord's "duty to cure the problem, so it does not recur frequently." (Hearing Officer's Decision, p. 27.) Respondent repeatedly failed to maintain this duty and instead allowed this issue to persist for years. Petitioner and her family are continuing to experience a clogged toilet to date, over seven months after the Hearing on these Petitions took place.

As such, the Hearing Officer's award is well supported by the record. Petitioner respectfully requests the Rental Housing Committee adopts this portion of the Tentative Appeal Decision.

A. The Hearing Officer's Award Methodologies are Consistent with the CSFRA.

The Tentative Decision correctly identifies the Hearing Officer's consistent methodologies for determining the award in this decision. It is within the Hearing Officer's discretion to render a final decision on the merits of the Petition, subject to the CSFRA. (CSFRA § 1711(a).) Nothing in the Hearing Officer's Decision is out of line with her authority under the CSFRA.

The Hearing Officer's decision is clear, that the rewards remain open ended because the issues remain unaddressed. (HO Decision, p. 27, 30.) Respondent's argument that there is an indefinite opening for reimbursement anytime there is a clogged toilet or water intrusion through a window in the future fails to acknowledge that these conditions remain outstanding. (Respondent Appeal, p. 4.) It is clear from the record and from the Hearing Officer's decision that there is sufficient evidence to demonstrate both the clogged toilet and the leaky dining window are continuing issues warranting continued reimbursement.

As such, the Hearing Officer's methodology applied in calculating the awards is well supported by the principles of the CSFRA. Petitioner respectfully requests the Rental Housing Committee adopts this portion of the Tentative Appeal Decision.

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II. The Hearing Officer's Decision Should Be Upheld as Related to the Leaky Dining Room Window.

As related to the leaking dining room window, the Petitioner requests that the Committee reconsider the Tentative Decision and uphold the Hearing Officer's Decision because: (1) the award beginning January 2017 was reasonable given that Respondent was on notice of the outstanding condition when the CSFRA went into effect; and (2) the monthly reduction was appropriate where the condition remained outstanding year-round.

A. The Hearing Officer's Award Reasonably Calculated the Time Period Respondent Was on Notice of the Outstanding Issue.

The Tentative Appeal Decision indicates that the award for the leaking dining room window should begin at the first point in time when the Petitioner notified Respondent of the issue after the CSFRA took effect rather than beginning January 1, 2017. (Tentative Appeal Decision ("TAD"), p. 7.) Petitioner respectfully requests that the Rental Housing Committee reconsiders.

It is well established that "[w]hen the landlord has notice of the defect and the breach is substantial, the breach of the warranty of habitability exists **from the time of the notice**[.]" (The California Judges' Benchguide 31: Landlord-Tenant Litigation: Unlawful Detainer (2020) §31.26 (*citing Knight v Hallsthammar* (1981) 29 C3d 46, 55).) The CSFRA provides that a petition for downward adjustment for failure to maintain a habitable premises must "demonstrate that the Landlord was provided with reasonable notice and an opportunity to correct[.]" (CSFRA § 1710(b)(2).) Further, the Tentative Appeal Decision acknowledges that "the CSFRA does not require a tenant to *continue* notifying and continue providing the landlord with opportunity to correct[.]" (TAD, p. 6 (emphasis added).)

Here, Petitioner first notified Respondent about the issue with the leaking window back in 2004. While it is reasonable to calculate an award under the Petition process only beginning after the CSFRA took effect, it is also reasonable to consider Respondent's knowledge about this issue that predates the CSFRA. Respondent had already been on notice of the leaking dining room window for many years when the CSFRA took effect in 2017. The CSFRA does not indicate that a tenant is required to re-notify landlords about outstanding issues that existed prior to the CSFRA in order to seek reimbursement for a habitability violation through a petition process.

It was therefore reasonable for the Hearing Officer to calculate the reimbursement beginning January 1, 2017, when the CSFRA took effect given Respondent's notice.

B. The Hearing Officer's Award Reasonably Accounts for the Entire Duration the Window Experienced

The monthly reduction awarded by the Hearing Officer for the leaking window is reasonable considering that the condition of the window remains the same year-round, regardless of the weather. While it is known that the dining room window leaks, it is not entirely clear what causes the window to do this. This is why Petitioner has repeatedly requested Respondent come to inspect the window to ensure it is properly sealed. (TAD, p. 6 (*citing* Petitioner's Ex. #5).)

The California Supreme Court has held that a tenant need not be aware of the exact defect to determine a habitability breach:

> "[T]he fact that a tenant was or was not aware of specific defects is not determinative of the duty of a landlord to maintain premises which are habitable. The same reasons which imply the existence of the warranty of habitability—the inequality of bargaining power, the shortage of housing, and the impracticability of imposing upon tenants a duty of inspection—also compel the conclusion that a tenant's lack of knowledge of defects is not a prerequisite to the landlord's breach of the warranty."

(*Knight, supra,* 29 Cal.3d at p. 54.)

It is unusual and contrary to its function for a closed window to leak when it is raining. The simple fact that the window repeatedly leaks is indicative of a larger habitability issue that the Petitioner is unable to identify. This evidences some underlying problem with the construction and/or sealing of the window that has never been properly addressed, even after Respondent replaced the window. It is incumbent upon Respondent to do the necessary investigation to determine the reason for the leak, but Respondent has failed to do so. Although this issue is most apparent when it rains because of the water intrusion, the condition of the window remains the same regardless of the weather.

Therefore, the Hearing Officer's award was reasonable as it accounts for the entire duration the inadequate condition of the window has existed and continues to exist. Petitioner respectfully requests the Hearing Officer's Decision as related to the leaking dining room window is upheld in its entirety.

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III. Conclusion

For the foregoing reasons, Petitioner respectfully requests the Rental Housing Committee adopts the Tentative Appeal Decision as to the issues of the repeatedly clogged toilets and the consistent award methodologies, as well as upholds the Hearing Officer's Decision as related to the award for the leaky dining room window.

Respectfully Submitted,

Alysyn Martinez

Counsel for Petitioner