

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

Rental Housing Committee Petition Nos.:	C24250042, C24250043
Type of Petition:	Petition A: Unlawful Rent; Petition B: Failure to Maintain Habitable Premises
Address of Rental Property:	507 Central Avenue, Mountain View, CA 94043
Subject Unit(s):	██████
Petitioner Name(s) and Authorized Representative(s):	Shichao Wang, Petitioner Wenjing Wang, Authorized Representative
Respondent Name(s) and Authorized Representative(s):	Agate Bay, LLC, Respondent Steven A. Welter, Authorized Representative
Date of Prehearing Meeting:	July 15, 2025
Date of Hearing:	August 4, 2025
Place of Hearing:	Zoom
Date Hearing Record Closed:	August 16, 2025
Date of Decision:	September 23, 2025
Date of Mailing:	See attached proof of service
Hearing Officer:	Barbara M. Anscher

I. PROCEDURAL HISTORY

1. On March 25, 2025, Wenjing Wang (“Ms. Wang”) filed with the City of Mountain View Rent Stabilization Division (the “City Rent Stabilization Division”) two Petitions (collectively, the “Petitions”) requesting a downward adjustment of rent for the rental unit located at 507 Central Avenue, Unit ██████ (the “Affected Unit”). For reasons explained in Section VII.B.1., below, Shichao Wang, Ms. Wang’s son, shall be referred to as the Petitioner herein.

2. The first Petition (the “Petition A”) requested a downward adjustment of rent based upon a charge for pest control services.

3. The second Petition (the “Petition B”) requested a downward adjustment of rent due to a failure to maintain habitable premises and a decrease in Housing Services. During the Prehearing Meeting, Ms. Wang stated that the Petition B claims were both based on the same facts, i.e., secondhand smoking coming from a neighboring rental unit. The claim is treated herein as a failure to maintain habitable premises.
4. On April 4, 2025, the Rent Stabilization Division served on the parties a Notice of Filing of a Downward Adjustment of Rent Petition.
5. On April 22, 2025, Respondent filed a Petition Response Notice with supporting documents.
6. The Rent Stabilization Division served on the parties a Notice of Acceptance and Forwarding of Petition, with a Hearing Information Sheet attached, on June 10, 2025.
7. On June 23, 2025, the Rent Stabilization Division served on the parties a Notice of Prehearing Meeting and Hearing, setting a Prehearing Meeting date for July 15, 2025 at 1:30 p.m. and a tentative Hearing date of August 4, 2025 at 1:30 p.m. Attached to the Notice was a Hearing Information Sheet.
8. A Prehearing Meeting was held by videoconference on July 15, 2025 at 1:30 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.
9. At the Prehearing Meeting, Respondent’s Authorized Representative, Steven A. Welter (“Mr. Welter”), addressed an issue that had been raised by Respondent’s Response to the Petition: whether Ms. Wang, as an additional occupant, is a “Tenant” as defined by the CSFRA. This issue arose because Ms. Wang listed herself as the “Tenant” in the Petition, and listed her son, Shichao Wang, as a “Roommate.” Mr. Welter argued that Ms. Wang was not a Tenant and could not bring the Petition. The Hearing Officer explained to the parties that the matter could be treated procedurally in one of two ways: (1) Mr. Welter could bring a motion to dismiss, which would be heard at a separate prehearing conference; or (2) the Hearing could go forward as scheduled, Mr. Welter could raise the issue at the Hearing, and the Hearing Officer would decide the issue after the Hearing. After discussion of the procedural options, Mr. Welter withdrew the issue. The Hearing Officer questioned him as to whether he understood that he was waiving the issue as to whether Ms. Wang had standing under the CSFRA to bring the Petition, and Mr. Welter affirmed that he had waived that issue and would proceed with the Hearing as scheduled.

10. On July 15, 2025, after the Prehearing Meeting, the Hearing Officer issued a Prehearing Order by which the parties were granted until July 25, 2025 to submit documents requested by the Hearing Officer and to submit witness lists, if any. The Prehearing Order was served on the parties by the Rent Stabilization Division on July 18, 2025.

11. The parties submitted additional documentary evidence on or before July 25, 2025.

12. A Hearing was held on August 4, 2025 at 1:30 p.m., as duly noticed. At the commencement of the Hearing, the Hearing Officer questioned Mr. Welter as to whether he was still waiving the issue of whether Ms. Wang is a Tenant under the CSFRA, and he confirmed that the issue had been withdrawn and that he had not changed his mind. Upon questioning by the Hearing Officer, Ms. Wang stated that she brought the Petitions on behalf of Mr. Wang and herself and that she was willing to have Mr. Wang sign a Representative Authorization Form.

13. During the Hearing, Mr. Welter objected to Ms. Wang raising the issue of two banked rent increases as irrelevant. Given that it is impossible for a Hearing Officer to determine a rent reduction without being certain of what the lawful rent is, Ms. Wang's evidence was relevant and admissible.

14. The Record was closed on August 16, 2025.

II. PARTICIPANTS AT THE HEARING

Wenjing Wang attended the Hearing as the Authorized Representative of Petitioner-Tenant Shichao Wang ("Petitioner" or "Mr. Wang").

Steven A. Welter, LLC Manager, attended the Hearing as the Authorized Representative of Respondent-Landlord Agate Bay, LLC ("Respondent" or "Landlord").

Reeta Rao ("Ms. Rao"), Regional Manager of CBW Properties, also attended the Hearing.

Alitcel Camacho and Danaya Thomas were present on behalf of the City of Mountain View Rent Stabilization Division.

Interpreters Eileen Li and Ivy Xu provided Mandarin interpretation for Ms. Wang.

III. SUMMARY OF FINDINGS

A. The premises rent for the Affected Unit is rolled back to \$2,195.00.

B. Respondent-Landlord Agate Bay, LLC shall pay to Petitioner-Tenant Shichao Wang \$1,296.00 as a refund of premises rent through August 30, 2025 for an unlawful rent increase noticed on November 22, 2024 and effective January 1, 2025. Respondent shall also refund any amounts above \$2,195.00 paid by Petitioner on September 1, 2025 or later

for premises rent. The rent refund shall not include the amount of the one-time utility adjustment.

C. Respondent shall pay to Petitioner \$175.00 as a refund of unlawful rent due to a charge for alleged failure to allow entry for pest control inspections. If this \$175.00 charge has not been paid by Petitioner and appears in the tenant rent ledger as a charge, that charge shall be removed from the tenant rent ledger.

D. Respondent shall pay to Petitioner \$2,648.16 for failure to maintain the Affected Unit in a habitable condition with respect to secondhand smoke entering the Affected Unit.

E. After Respondent has paid all amounts due to Petitioner pursuant to this Decision, Respondent may increase the rent by the applicable Annual General Adjustment (“AGA”) and any banked rent increases accruing to Respondent, provided that any rent increase does not exceed 10 percent and is issued in accordance with the CSFRA and state law.

F. The Hearing Officer is not authorized to decide Petitioner’s allegations with respect to: (1) the legality of any entry into the Affected Unit on November 6, 2024 and November 9, 2024; (2) the legality of a “Written Notice to Cease,” posted at the Affected Unit on June 20, 2024; or (3) allegations of harassment, retaliation, or discrimination.

IV. SUMMARY OF WITNESS TESTIMONY

Wenjing Wang

Ms. Wang testified that she believed the rent increased in October or November 2024 by 7.4 percent. She said that she was confused by the 7.4 percent increase and believed it was too high.

Ms. Wang testified that a \$175.00 charge by Respondent for failure to allow entry by a pest control technician was unlawful. She believes that pest control is Respondent’s responsibility, and she should not be charged for it. She tried to mediate this issue through the Mountain View Mediation Program, but Respondent did not respond to requests to mediate.

Ms. Wang said that the attempted entries by the pest control technician were unlawful and that an attorney has been sending letters to Respondent telling them that they attempted to enter unlawfully. She said that she had the right to refuse entry and that the notice of entry was irrelevant. Ms. Wang also testified that she called “911” both times when the pest control technician attempted to enter. She stated that she had no prior notice that the pest inspection was going to occur.

Ms. Wang said that Respondent was trying to harass her. She said that she was given eviction notices and also notices for entry for pest control were posted, but no one showed up. She also testified that she believes Property Manager was retaliating against her. Property Manager told her that they do not want her to live at the Affected Unit and after that she received an eviction notice on her door.

With respect to the issue of her neighbor smoking, Ms. Wang said that when it first occurred, she contacted the Rent Stabilization Division. Ms. Wang said that she also requested mediation for the smoking issue, but Respondent did not respond to requests to mediate. She sent an email to Ms. Rao on October 30, 2024, and Ms. Rao responded that the building was not a smoke-free building. After that, Ms. Wang said that she felt that Ms. Rao just did not want to deal with the smoking issue, so she stopped contacting her about it. Instead, she contacted the Rent Stabilization Division to ask what to do. Ms. Wang said that she could not remember what the Rent Stabilization Division response was, but she said that someone told her to call "911," and she was surprised by that. She also said that she contacted Building Inspector James Olson on November 12, 2024.

Ms. Wang testified that her neighbor's smoking caused her to have health concerns; she said that it is common sense that secondhand smoke affects people's health. She said that James Olson from the Fire Department identified one neighboring rental unit where smoking was occurring. Ms. Wang said that she called and emailed the City of Mountain View many times. She also called the Fire Department a number of times, but no one showed up. Additionally, she kept contacting Mr. Olson.

Ms. Wang testified that Respondent did not take any action to deal with the smoking. She said that sometime after Ms. Wang emailed Ms. Rao, a property management staff member, Ajay, told Mr. Wang that they could not do anything about the smoking. She stated that Respondent did not do anything until Mr. Olson inspected the Property.

Ms. Wang testified that the smoking problem has improved since Mr. Wang returned to the Affected Unit in January 2025. He can occasionally smell smoke, but it is not very strong.

Ms. Wang said that she was not living in the Affected Unit between October 30, 2024 and January 2025; she had only been visiting, and she left sometime in October 2024. Mr. Wang was the one who was affected by the smoke and who could not sleep in the Affected Unit because of it. Mr. Wang was forced to stay at work so as not to be in the Affected Unit. He stayed in the Affected Unit for a while, but he ultimately vacated due to the smoke and went back to Pennsylvania. He stayed away from December 7, 2024 through January 8, 2025. He returned because he was required to work at his office four days a week.

Steven Welter

Mr. Welter testified that there was a rent increase from \$2,195.00 to \$2,357.00 which was imposed while a previous Petition was pending, and Respondent found out that that was improper, so Respondent rolled back the rent increase and refunded the unlawfully paid rent. Another rent increase notice was issued on November 22, 2024 with an effective date of January 1, 2025. That rent increase included the AGA for 2024 of 2.4 percent as well as a banked rent increase for 2023 of five percent. The total amount of the increase was \$162.00 per month, and the total new monthly rent was \$2,357.00.

Mr. Welter testified that the \$175.00 charge is an open charge that has never been paid, so there would be no refund involved if the Hearing Officer were to rule in favor of Petitioner.

Mr. Welter said that a previous Petition had been filed by Mr. Wang alleging an infestation of bed bugs in the Affected Unit. A notice was posted on November 3, 2023 for an inspection on November 6, 2023. In order to be accommodating to the Petitioner, Property Manager used a 48-hour notice rather than a 24-hour notice. Property Manager intended to edit a pre-move-out inspection notice to become a notice of inspection for bed bugs; however, they erroneously posted the unedited version. Mr. Welter said that "in hindsight, this was very confusing." He also said that he could not say with certainty that the edited notice was ever posted. The pest control technician showed up for the inspection and was turned away by Ms. Wang.

A second notice was posted November 6, 2023 for an inspection on November 9, 2023. This notice was edited correctly. When the pest control technician arrived, he was denied entry by Ms. Wang. The pest control company charged Respondent \$175.00 for their time for failure to allow entry on November 6, 2023 and November 9, 2023, and Respondent is passing on the charge to Mr. Wang. When the pest control company was ultimately allowed to enter and inspect the Affected Unit, it found no evidence of a bed bug infestation.

With respect to the smoking issue, Respondent was first notified by Ms. Wang on October 30, 2024. Mr. Welter said that Respondent was aware of the smoking ordinance prior to being notified of the smoking issue by Ms. Wang, and information about the Mountain View smoking ordinance is included in all leases. Staff attempted to observe smoking in the vicinity of the Affected Unit but did not find any specific evidence of smoking. Staff replied to Ms. Wang by email of November 12, 2024 indicating that they were investigating the issue.

Respondent received an email from James Olson on November 22, 2024, stating that he had inspected the Property and noticed a smell of cigarette smoke emanating from rental unit # [REDACTED] which is directly below the Affected Unit. Mr. Olson provided an Inspection

Report which indicated that Respondent was not in compliance with the requirement under the smoking ordinance to post “No Smoking” signs on the Property. Mr. Welter said there had been signs posted at the time of the inspection, but Mr. Olson required additional signs. The signs that had already been posted were near the City sidewalk bordering the Property where they had had previous issues with smoking by non-tenants and at the automobile entrances. Mr. Welter said that the Petition B was the first instance that he was aware of concerning tenants smoking within the Property.

Mr. Welter testified that, based on the information provided by Mr. Olson, Property Manager posted a lease violation letter on rental unit [REDACTED] on November 27, 2024, which reminded the tenant that smoking in the rental unit was prohibited by the lease. The letter stated that smoking could not occur within 25 feet of the Property. The letter also informed the tenant that failure to comply with the smoking prohibition could result in a three-day notice to terminate the Lease. Respondent hoped at that point that the issue would be resolved, which Mr. Welter believes happened in this case. There was no further communication with the tenants in rental unit [REDACTED] after the posting of the letter. Staff continued to walk the Property as part of their daily duties, but Mr. Welter did not describe any specific effort to monitor the offending rental unit for smoke. While Mr. Welter sent an email to Mr. Olson on November 22, 2024 stating that he would use the Inspection Report as a basis for posting a three-day notice to quit on rental unit [REDACTED] he did not do so because it is “more efficient” to resolve such an issue with a lease violation letter.

Mr. Welter stated that it took almost a month between notice from Ms. Wang of the smoking and the posting of the letter at rental unit [REDACTED] because staff was unable to identify which rental unit the smoking was coming from. They used the information provided by Mr. Olson in the Inspection Report on November 22, 2024 as grounds for posting the lease violation letter.

Mr. Welter testified that Respondent’s staff did not communicate with Ms. Wang as to the steps that they were taking to address the smoking complaint because he said that communication with Ms. Wang over the past year and a half has been difficult, and he has instructed staff to limit their communications about the Affected Unit to the Tenant, Mr. Wang. They take notice of complaints reported by Ms. Wang, but they limit their communications with her. They never heard from Mr. Wang about this issue, so there was no communication with him about it.

The additional signs required by Mr. Olson were installed by December 11, 2024. Mr. Welter said that Respondent has heard nothing further about this issue from the City of Mountain View, from Mr. Wang or Ms. Wang, or from any other Tenants, so it was assumed that the issue had been resolved. Mr. Welter believes that the issue was resolved at the time that

the lease violation was posted. His last correspondence with Mr. Olson was an email of April 22, 2025, and the Property has not been reinspected by him. Mr. Welter also stated that Petitioner is requesting a downward adjustment of rent for the month of October 2024; however, Respondent was not notified of the smoking issue until October 30, 2024.

Mr. Welter stated that staff never told Ms. Wang or Mr. Wang that there was nothing that could be done about the smoking issue. Mr. Welter also said that staff has never told Ms. Wang to leave or tried to evict her.

Mr. Welter said that with respect to Ms. Rao's email stating that the Property was not smoke-free, Respondent's staff does its best to keep up with all Mountain View laws pertaining to housing. He said he believes the City of Mountain View smoking ordinance implies that smoking is not prohibited on an entire property. He said that he and Ms. Rao read the ordinance and questioned whether it said that all smoking on a property was prohibited or whether there were places on a property where smoking could occur. They found the ordinance unclear, but since there appeared to be avenues to provide smoking on the Property, although the Property at issue does not have smoking areas, they concluded that the proper response would be to say that the entire Property is not smoke-free because the entire Property was not required to be smoke-free by the smoking ordinance.

Mr. Welter testified that he believed the eviction notice Ms. Wang was referring to was served on the Affected Unit in June 2024 in order to either get Ms. Wang to sign the Lease or to get Mr. Wang to fill out the form required for an additional occupant who is a family member, which they had not done after numerous requests. Ms. Wang had been occupying the Affected Unit for over two weeks, which was in contravention of the Lease.

Mr. Welter said that he was unaware that Respondent was ever contacted to mediate the issues raised in the Petitions.

V. EXHIBITS

See Attachment 1 to this Written Decision for a list of the exhibits for the Hearing Officer, Petitioner-Tenant, and Respondent-Landlord.

VI. ISSUES PRESENTED

1. Whether the rent was unlawfully increased on December 3, 2024 when Respondent posted a charge of \$175.00 for failure to allow entry for pest control inspections.
2. Whether Respondent failed to maintain habitable premises pursuant to CSFRA Section 1710(b), including violations of governing health and safety and building codes such as Civil Code Sections 1941.1 et seq. and Health and Safety Code Sections 17920.3 and

17920.10, based on secondhand smoke from a neighboring rental unit entering the Affected Unit.

3. Whether Respondent was not substantially compliant with the CSFRA in 2024 and 2025 because of (a) failure to maintain the Property and the Affected Unit in substantial compliance with all State and local health and safety laws, and with any RHC orders or regulations, and (b) failure to correct an outstanding notice of violation on the Property.

VII. FINDINGS OF FACT SUPPORTING THIS DECISION AND DISCUSSION

A. Findings of Fact

1. Ms. Wang's son, Shichao Wang, entered into a lease agreement for the Affected Unit for an initial term of approximately eight months, commencing on June 26, 2023 and terminating on February 28, 2024 (the "Lease"). Ms. Wang has occupied the Affected Unit for various periods of time since the commencement of the Lease, and on June 25, 2024, Mr. Wang notified Respondent (a) that Ms. Wang is an Additional Occupant of the Affected Unit, as that term is defined in the CSFRA and its Regulations, and (b) that Ms. Wang is an Eligible Family Member pursuant to the CSFRA.

2. On the form that Mr. Wang filled out declaring Ms. Wang an Additional Occupant, he indicated that he alone would be responsible for paying the rent to Respondent and that Ms. Wang would not be contributing to the payment of rent.

3. Mr. Wang submitted a Representative Authorization Form, dated August 12, 2025, designating Ms. Wang as his representative for the purposes of the instant case.

4. The Affected Unit is located in an apartment complex commonly known as the Shoreline Village Apartments (the "Property"). The Property is owned by Agate Bay, LLC. It is managed by CBW Properties, Inc. ("Property Manager," or "property management"). Reeta Rao, who is employed by Property Manager, is the Regional Manager for the Property. Jordan Rao ("Jordan Rao" or "Mr. Rao") was at all relevant times the on-site property manager.

5. The Affected Unit has one bedroom and one bathroom.

6. The initial rent for the Affected Unit was \$2,195.00 per month. The rent was increased to \$2,357.00 effective September 1, 2024. A banked rent increase notice for the September 1, 2024 increase was issued on July 23, 2024, with an attachment itemizing the increase.

7. The rent was rolled back to \$2,195.00 as of October 1, 2024, with a refund of \$162.00 issued to Mr. Wang.

8. On November 22, 2024, Jordan Rao posted a Thirty-Day Notice of Change of Monthly Rent, effective January 1, 2025, increasing the rent by 7.4 percent to \$2,357.00. The notice attached the Rental Housing Committee-approved form for a banked rent increase. The Rental Housing Committee shall hereinafter be referred to as the “RHC.”

9. On May 13, 2025, Respondent informed Mr. Wang that he would have a one-time utility adjustment of \$107.55. The form that Respondent used to notify Mr. Wang, provided by the RHC, states that the utility adjustment is a “downward adjustment of rent.” Pursuant to the one-time utility adjustment, the monthly rent was increased to \$2,464.55 effective July 1, 2025.

10. Paragraph 29 of the Lease concerns bedbugs. It says in part that “Residents shall cooperate with the [pest control] inspection including allowing entry to inspect.” The provisions about bedbugs do not address the possible consequences for failure of a Tenant to allow entry to inspect for bedbugs.

11. On November 3, 2023, Mr. Rao posted a “Forty-Eight Hour Notice to Enter Dwelling Unit/Premises to Provide Initial (Pre-Move-out) Inspection,” which was to occur on November 6, 2023. Respondent submitted a revised version of this notice, which crossed out “to Provide Initial (Pre-Move-out) Inspection” and added “*a pest control inspection of the unit by [REDACTED] Pest Control.” The revised notice was never posted at the Affected Unit. Respondent submitted a report from [REDACTED] Pest Control, dated November 6, 2023, indicating that the technician attempted to enter the Affected Unit on November 6, 2023 at 11:16 a.m. to inspect for bed bugs but was denied permission to enter.

12. On November 6, 2023, Jordan Rao posted another forty-eight hour notice on the same type of form, i.e., for a pre-move-out inspection, but this time he crossed out the portion about the pre-move-out inspection and edited the form so that it said “to Provide Pest Control Inspection.” The notice stated that entry would be on November 9, 2023.

13. Ms. Wang testified that she called the police when the pest control technician attempted to enter on November 6, 2023 and on November 9, 2023. She submitted a public records request for the police reports, but the response she received on November 19, 2023 indicated that there was no record of any incidents associated with Ms. Wang’s name.

14. Property Manager posted a third notice to enter on February 13, 2024 for entry on February 14, 2024 for the pest control technician to inspect for bed bugs, and Ms. Wang allowed him to enter.

15. A pest control invoice dated November 9, 2023 shows a charge to Property Manager in the amount of \$175.00 with the notation: "Unit # [REDACTED] Second attempt at an inspection 11/6 and 11/9 TENANT REFUSED ENTRY ON BOTH DATES."

16. On December 3, 2024, Respondent charged Petitioner \$175.00 as a "damage fee." The fee was imposed because, according to Respondent, Ms. Wang denied entry for a pest control inspection twice, once on November 6, 2023 and once on November 9, 2023. As of August 1, 2025, Mr. Wang had not paid the \$175.00, and it was being carried over in the balance due on Respondent's tenant rent ledger.

17. On February 6, 2025 and February 7, 2025, Ms. Wang sent Ms. Rao emails questioning the \$175.00 charge. She wrote that she had never been given notice of entry for pest control inspections.

18. The City of Mountain View has a smoking ordinance prohibiting smoking in multi-family housing which became effective on January 1, 2022.

19. Paragraph 19 of the Lease states that smoking is prohibited on the Property and that the Mountain View smoking ordinance is attached. In actuality, a copy of the smoking ordinance is not attached, but a copy of a memorandum with the subject heading "Notice of Smoking Complaint in Multi-Unit Residences" from the Mountain View Fire and Environmental Protection Division is attached.

20. On October 30, 2024, Ms. Wang sent an email to Ms. Rao stating that Ms. Wang had noticed a persistent smell of smoke in the Affected Unit and surrounding common areas. She copied the Rent Stabilization Division on the email.

21. Ms. Wang testified that she sent the October 30, 2024 email on behalf of her son because he was the only occupant of the Affected Unit at that time. She had been visiting him but had left sometime in October. Ms. Wang said her son was staying longer at work so as to avoid the smoke in the Affected Unit. She also said that he was having trouble sleeping in the Affected Unit due to the secondhand smoke.

22. On November 9, 2024, Ms. Wang sent an email to the Rent Stabilization Division complaining about the smell of smoke in the Affected Unit and saying that she had not heard from property management in response to her initial complaint. Ms. Wang copied Ms. Rao on the email.

23. On November 12, 2024, Ms. Rao sent an email to Ms. Wang which said, "We are not a smoking free property, we are trying our best to address the issue." Ms. Wang forwarded the message to Building Inspector James Olson ("Mr. Olson"), from the City of Mountain View

Fire and Environmental Protection Division (the “Fire Department”) who told her to call the non-emergency number of the Fire Department.

24. Ms. Wang testified that she interpreted Ms. Rao’s email to mean that property management did not follow the dictates of the Mountain View smoking ordinance and that they were not going to address the smoking issue. Ms. Wang said that after she read Ms. Rao’s response, she stopped contacting her about the problem.

25. Mr. Welter testified that he and Ms. Rao determined that the ambiguous nature of the smoking ordinance required them to conclude that the Property was not a completely smoke-free property even though there were no designated smoking areas on the Property; therefore, Ms. Rao told Ms. Wang in the email of November 12, 2024 that the Property was not “smoking free.”

26. Ms. Wang testified that in early November 2024, after Ms. Wang received Ms. Rao’s November 12, 2024 email, a maintenance technician, [REDACTED] told Mr. Wang that nothing could be done about the smoking violation.

27. Mr. Welter testified that neither he nor his staff communicated with Ms. Wang or Mr. Wang to explain what they were doing to deal with the smoking issue because communication with Ms. Wang had been “difficult,” and Mr. Welter had instructed his staff to only communicate with Mr. Wang. He said that no one communicated with Mr. Wang because Mr. Wang did not communicate with them about the smoking issue.

28. On November 22, 2024, Ms. Wang sent another email to Mr. Olson in which she wrote that she had reported the smoking to the “Mountain View government” on November 12, 2024 and that the problem had not been resolved. She said that a few days earlier, she had called the non-emergency number of the Fire Department, but no one showed up. The email stated that the smoking occurred during the night and that Ms. Wang had been told by property management that “the building is not Smoking Free apartment.”

29. In a reply dated November 22, 2024, Mr. Olson encouraged Ms. Wang to continue to call the non-emergency number of the fire department in order to document the incidences of smoking. He also wrote, “I will be writing a report to the property owner with the findings that Unit [REDACTED] may be the cause of this on-going complaint and they will need to help get this resolved.”

30. Mr. Olson prepared an Inspection Report, dated November 22, 2024, which states:

“Unit [REDACTED] is in clear violation of our City’s Smoking Ordinance, it is the responsibility of the property owner/management to help resolve this complaint.

Your property doesn't have the required No Smoking signs that should [be] installed at all entrance points from the carport, in common rooms and areas."

31. On November 22, 2024, Mr. Olson emailed the Inspection Report to Mr. Welter and Ms. Rao. In the email, he said, "We have been receiving multiple smoking complaints from your residents, during my site visit today there was an obvious odor of cigarette smoking coming from the partly open sliding patio door..."

32. On November 22, 2024, Mr. Welter wrote in an email to Mr. Olson, "We will use your attached notification for grounds to post a three day notice to quit for lease violation for unit [REDACTED]"

33. On November 26, 2024, Ms. Wang emailed Mr. Olson again, telling him that she had reported the issue again to the Fire Department on November 22, 2024 and November 25, 2024. She said that the smoking was occurring during the "whole day," and she expressed frustration that the City of Mountain View was not taking action to enforce the smoking ordinance.

34. Mr. Olson replied by stating that reporting the smoking helps to create a record which the "property owner can use to use legal means to resolve this or possibly evict the person(s) for a lease agreement violation." He also said that the Fire Department would send a notice of smoking violation to the tenant in rental unit [REDACTED] by certified mail.

35. Mr. Olson sent an additional email to Ms. Wang on November 26, 2025, instructing her to send an email to the Property Manager every time that she believed someone was smoking in the neighboring rental unit. He also said that "[t]he resident will need to be notified by the property owner of their lease violation and to be given the time legally provided to correct their actions before an eviction process can start." He told Ms. Wang that an eviction could take a long time.

36. On November 27, 2024, Ms. Rao posted a letter to the tenants in rental unit [REDACTED] which stated as follows:

"This letter serves (*sic*) as a reminder that Shoreline Village Apartments is a smoke free Community. The Leasing Office has received multiple complaints from the neighbors smelling cigarette from your unit. Please be advised that the City Ordinance states no smoking in the unit, you need to be 25 feet away for smoking.

This (*sic*) lease violation and (*sic*) needs to stop now. Failure to comply with the smoking prohibition could result in a 3-day lease termination."

37. Mr. Welter testified that there was no further communication by property management with the tenants in rental unit [REDACTED] after the letter was posted on November 27, 2024. He said that there was no specific follow-up to see whether the smoking had ceased, other than the usual walking of the Property performed by property management staff.

38. Ms. Wang testified that Mr. Wang vacated the Affected Unit from December 7, 2024 through January 8, 2025 due to the smoking.

39. On December 11, 2024, Mr. Welter sent an email to Mr. Olson informing him that Respondent had posted 12 no-smoking signs in the carports in addition to those that were posted at the entrances.

40. Ms. Wang testified that the smoking issue has significantly improved since Mr. Wang returned to the Affected Unit on January 8, 2025.

B. Discussion

1. Preliminary Procedural Issue

As discussed in Section I, above, Mr. Welter initially objected to Ms. Wang bringing the Petitions, arguing that she is an “Occupant,” not a “Tenant,” and therefore does not have standing to file a Petition under the CSFRA. Mr. Welter subsequently withdrew the challenge to Ms. Wang’s standing.

Ms. Wang testified during the Hearing that it was her understanding that she was bringing the Petitions on behalf of her son, Mr. Wang, and herself. The Hearing Officer will not decide the issue of whether Ms. Wang had standing to bring the Petitions on her behalf because it was Ms. Wang’s understanding that she was bringing them on behalf of the Tenant, Mr. Wang, and Mr. Wang executed a Representative Authorization Form authorizing Ms. Wang to bring the Petitions on his behalf. The Hearing Officer will consider the error in the Petitions of listing Ms. Wang as the Petitioner and Mr. Wang as the “roommate” as harmless given Ms. Wang’s lack of expertise in legal matters, her use of English as a second language, and the clarity of her intent.

2. Burden of Proof

Petitioner bears the burden of proving the claims raised in this case by a preponderance of the evidence.

Pursuant to CSFRA Section 1711(h), “[n]o Petition for Individual Rent Adjustment, whether upward or downward, shall be granted unless supported by the preponderance of the evidence submitted prior to and at the hearing...” CSFRA Regulations Chapter 5, Section

G.3. states that “[n]o individual claims shall be approved by a Hearing Officer unless supported by the preponderance of the evidence in the hearing record.”

CSFRA Regulations Chapter 5, Section.G.2. provides that “Tenants have the burden of proving the existence of housing service reductions, Code violations, violations of the CSFRA (including the demand for or retention of unlawful rents), or any claims raised in a Rent Decrease Petition.”

3. Unlawful Rent

(a) \$175.00 Fee

CSFRA Section 1710(d) provides: “If a Landlord demands or retains Rent in excess of the lawful Rent pursuant to this Article, a Tenant may file a Petition to adjust the Rent to its lawful level.” The Petition A alleges that a fee of \$175.00 charged to Mr. Wang constituted unlawful rent.

CSFRA Section 1706(b) provides that “[n]o Landlord shall increase Rent for a Covered Rental Unit except as authorized by this Article. Rent increases shall be limited to those imposed pursuant to Section 1707 (Annual General Adjustment)....” Section 1707(a) of the CSFRA states that “[n]o later than June 30th each year, the [Rental Housing] Committee shall announce the amount of the Annual General Adjustment, which shall be effective as of September 1st of that year. The Annual General Adjustment is the percentage by which the Rent for existing tenancies in Covered Rental Units may be increased each year...”

CSFRA Section 1707(b) states “No more than one Rent increase per twelve-month period may be imposed on a Tenant.” CSFRA Section 1707(c) states that “[a]llowable Rent increases pursuant to the Annual General Adjustment shall become effective only after the Landlord provides written notice to the Tenant in the manner prescribed by law, with at least thirty (30) days’ advance written notice.”

CSFRA Section 1707(f) states in part: “No Rent increase shall be effective if the Landlord: (1) Has failed to substantially comply with all provisions of this Article and all rules and regulations promulgated by the [Rental Housing] Committee...” Pursuant to CSFRA Regulations Ch. 12. B., Table 1.2, a Landlord who fails to increase Rent in conformity with the requirements of the CSFRA is not in substantial compliance with the CSFRA.

CSFRA Section 1702(p) and CSFRA Regulations, Chapter 2.q define “Rent” as “All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord under a Rental Housing Agreement concerning the use or occupancy of a Rental Unit and

premises and attendant Housing Services, including all payment and consideration demanded or paid for parking, Utility Charges, pets, furniture, and/or subletting.”

The question that arises here is whether the \$175.00 charge for failure to allow entry for pest inspection constitutes rent, and, if so, whether that charge violates CSFRA Section 1706 and/or Section 1707 and the regulations promulgated by the RHC.

Paragraph 29 of the Lease governs pest inspections for bedbugs. It does not include any language about tenants paying a fee for pest inspections or services or for refusing services. Therefore, a pest inspection fee is not included in the Lease as rent.¹

The fee should be treated as rent because it is a payment which accrues to the benefit of the Landlord and concerns the use or occupancy of a Rental Unit. It is analogous to a fee for parking or pets, which are considered Rent under CSFRA Section 1702(p). A new payment of Rent imposed after the commencement of the tenancy is not included in the monthly rent and is considered an increase in rent. The \$175.00 fee qualifies as rent that was charged after the initial rent was set by the Lease and constitutes an increase in rent.

The \$175.00 charge was imposed on December 3, 2024. While Respondent could have increased the rent as of February 29, 2024, when the Lease term expired, Respondent failed to provide notice of the \$175.00 charge as a rent increase as required by CSFRA Section 1707(c) and CSFRA Regulations Ch. 12.B, Table 1.2. Therefore, under CSFRA Section 1707(f) and CSFRA Regulations Ch. 12, Section B, Respondent was not in compliance with the CSFRA when they issued the \$175.00 rent increase, and the charge is therefore invalid.²

For the foregoing reasons, Petitioner has met his burden of proof that the \$175.00 charge constituted unlawful rent. If it has been paid, it must be refunded. If it still has not been paid, it must be removed from the debit balance in the tenant rent ledger.

¹ Additionally, California Civil Code Section 1954.604, which governs entry of rental units for pest control inspections, does not provide for monetary penalties for failure to allow entry. California law governs the issue of lawful entry, which is outside the purview of the Hearing Officer, as discussed later in this section of this Decision.

² Even if the \$175.00 rent increase were properly noticed, as discussed in Section VII.B.5., below, under CSFRA Section 1707(f)(2), it would be invalid because there was an outstanding habitability violation under California Health and Safety Code Section 17920.3(c) when the fee was charged. Additionally, if the charge were in fact a valid rent increase, it could technically invalidate the January 1, 2025 rent increase because it would raise the rent increase to over the permissible 2.4 percent amount of the AGA for 2024, and also the January 1, 2025 increase would constitute a second increase within a 12-month period in contravention of CSFRA Section 1707(b). It could be argued an increase of 6.6/10 per month above the AGA is *de minimis* and not significant enough to invalidate the later rent increase. However, given that the rent increase is invalidated for other reasons, there is no need to resolve this issue at this time.

In the context of the \$175.00 fee, Ms. Wang argued at the Hearing that the attempts to enter the Affected Unit on November 6, 2023 and November 9, 2023 for the pest inspections were unlawful. Pursuant to the CSFRA, in adjudicating a Petition for Downward Adjustment of Rent, the Hearing Officer only has jurisdiction to decide (1) whether the Landlord has failed to maintain a rental unit in a habitable condition, (2) whether there is a decrease in housing services or maintenance of the unit beyond ordinary wear and tear, and (3) whether a Landlord is demanding rent in excess of the lawful rent established by the CSFRA. See CSFRA §§ 1710(b)-(d); CSFRA §1711(a), and CSFRA Regulations, Ch. 5.B.4.

The Hearing Officer does not have the authority to make decisions as to whether a landlord has violated state law regarding landlord entry into rental units. Specifically, the Hearing Officer is not authorized to decide whether Respondent violated California Civil Code Sections 1954 and 1954.604 regulating the manner in which landlords may access tenants' units. Petitioner would have to bring a civil suit in the appropriate jurisdiction to remedy these allegations of illegal entry.

Further, Petitioner did not include allegations about illegal entry in the Petition. Although Ms. Wang raised this issue during the Hearing, this issue was never formally a part of Petitioner's complaint. The purpose of the Hearing is to "resolve issues raised by a Petition" (CSFRA Regulations, Chapter 5.A.1), and the Hearing Officer shall issue a decision "on the issues raised in the Petition" (*Id.*). The Hearing Officer is not required by the CSFRA or its implementing regulations to include every issue discussed in the Hearing that was not included in the Petition. Indeed, doing so could raise significant due process concerns if Respondent does not have notice that an issue will be raised.

(b) Banked Rent Increase

Also in the context of the unlawful rent allegation, Ms. Wang during the Hearing argued that the banked rent increase noticed by Respondent on November 22, 2024 and effective January 1, 2025 was unlawful. As discussed in Section VII.B5. below, the January 1, 2025 rent increase was invalid; however, once Respondent has paid all of the amounts due under this Decision, they may increase the Rent, including issuing a banked rent increase. Respondent was entitled to increase the Rent by the amount of the 2023 AGA between February 29, 2024 and August 31, 2024 but did not do so. Therefore, they are entitled to bank the amount of the 2023 AGA, which was 5 percent, and issue it as a rent increase at a later date. They may also bank the amount of the 2024 AGA of 2.4 percent, totaling a 7.4 percent banked rent increase. The banked rent increases may be added to a rent increase in the amount of the 2025 AGA of 2.7 percent, provided that the total amount of the rent increase does not exceed 10 percent and that Respondent is otherwise in compliance with the CSFRA.

4. Habitability

CSFRA Section 1710(b) states the following:

“(1) Failure 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.

(2) 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.”

CSFRA Regulations, Chapter 4.E.6. states that “[t]he Tenant must demonstrate that the landlord was provided with reasonable notice (by providing proof of written notice) and opportunity to correct the conditions that form the basis of this Petition.”

(a) Smoking Issue

The City of Mountain View enacted a multi-unit residential smoking prohibition effective January 1, 2022. See, Mountain View Municipal Code, Chapter 21, Article II, Sections 21.46 et seq. (the “Smoking Ordinance”). In enacting the Smoking Ordinance, the Mountain View City Council made legislative findings that “tobacco smoke is detrimental to the health, welfare and comfort of the general public and [the City Council] recognizes the right and need of those who wish to breathe fresh air. Accordingly, it has been determined that the health, safety and general welfare of the residents of... this city would be furthered by the prohibition and regulation of smoking in enclosed places or defined places.” MV Municipal Code, §21.46.

Mountain View Municipal Code, Section 21.56(a) provides that “Smoking is prohibited, and no person shall smoke inside any new or existing unit of a multi-unit residence, in any enclosed or unenclosed common area of a multi-unit residence or within a reasonable distance of any operable doorway, window, opening or vent of a multi-unit residence.” The Fire Department has interpreted “a reasonable distance” to mean that smoking is prohibited “[w]ithin 25 feet of any operable doorway, window, opening and vents of [the rental unit at issue] and neighboring multi-unit residences.” (Respondent’s Exhibit # 3, Memorandum from Fire Department—Notice of Smoking Complaint in Multi-Unit Residences.) Landlords are required to keep the premises free of smoking waste, post “no

smoking” signs, and include a smoking prohibition in leases. MV Muni. Code, §21.56(d), (e), (f).

The Smoking Ordinance further provides that “[a]ny violation of this article is hereby declared to be a nuisance.” MV Muni. Code §21.55(h).

In addition to the local ordinance, state law addresses the issue of nuisance in the context of residential dwellings. 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...”

California Health and Safety Code Section 17920.3(c) provides: “Any building or portion thereof... including any dwelling unit, ... or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the occupants of the building, nearby residents, or the public shall be deemed and hereby is declared to be a substandard building: (c) Any nuisance.”

There was no dispute that smoking was occurring on the Property in the vicinity of the Affected Unit. Mr. Welter and Ms. Wang agreed that Respondent received notice of the smoking by email of October 30, 2024. The Inspection Report issued by Building Inspector James Olson on November 22, 2024 states unequivocally that “Unit [REDACTED] is in clear violation of our City’s Smoking Ordinance, it is the responsibility of the property owner/management to help resolve this complaint.” Upon receiving the Inspection Report, Mr. Welter told Mr. Olson by email that “[w]e will use your attached notification for grounds to post a three day notice to quit for lease violation for unit [REDACTED] Mr. Wang vacated the Affected Unit between December 7, 2024 and January 8, 2025 due to the nuisance of the smoke emanating from the rental unit below his and wafting into the Affected Unit.

The only issue presented with respect to the smoking problem is whether Respondent addressed the issue appropriately and within a reasonable time. The Inspection Report placed the burden on Respondent to resolve the smoking issue. This is consistent with governing law. The City Council made a finding that secondhand smoke is detrimental to public health, and the Smoking Ordinance states that a violation of its dictates constitutes

a nuisance. California Health and Safety Code Section 17920.3(c) requires landlords to remediate nuisances, the existence of which render a dwelling substandard.

The smoking issue was first reported on October 30, 2024; however, the letter regarding the Lease violation was not posted on rental unit [REDACTED] until November 27, 2024. Additionally, no evidence was presented that after posting the letter of Lease violation, property management followed up with either the occupants of rental unit [REDACTED] or with Ms. Wang or Mr. Wang. Therefore, Respondent ended up making an assumption that the smoking issue had been resolved on the date that the Lease violation letter was posted, but there was no evidence to support that assumption. Indeed, Mr. Wang vacated the rental unit on December 7, 2024 due to the nuisance, 10 days after when Mr. Welter testified he believed the issue was resolved. As of the time of the Hearing, no follow-up documentation from Building Inspector James Olson was submitted indicating that the violation had been corrected.

Respondent should have done more to investigate the smoking allegations when they were informed of the problem on October 30, 2024. They could have spoken to Ms. Wang and/or Mr. Wang to get more information about where the smell of smoke was coming from and what time of day it was occurring. They could have spoken to the occupants of the neighboring rental units to determine whether they were aware of the Smoking Ordinance and that the Property was a nonsmoking property or whether they ever smelled smoke coming from a neighboring rental unit. They could have requested an inspection by the Fire Department or that the Fire Department post its notice of warning—which was appended to all leases for rental units on the Property-- on the neighboring rental units. Instead, property management waited to do anything significant until Ms. Wang contacted Mr. Olson and they received the Inspection Report, supporting Ms. Wang's assertions that they were not taking the allegations seriously until the City became involved. Even when Ms. Rao posted the letter of Lease violation on rental unit [REDACTED] it was not designed to be effective in emphasizing the seriousness of the matter to the occupants. It was sent in the form of a letter rather than on a document with a heading stating "Notice of Lease Violation" or "Notice to Cease;" it starts out saying it is a "reminder" about the Property being smoke-free; and the sentence that mentions the lease violation is so riddled with typographical errors as to be almost incomprehensible. This effort on the part of property management is a far cry from the statement by Mr. Welter in an email of November 22, 2024 to Mr. Olson that he would issue a three-day notice to quit due to the violation. Mr. Welter stated in testimony that it was more "efficient" to post the letter rather than a three-day notice, but there is no requirement of efficiency in a landlord's remediating a substandard dwelling; only efficacy and timeliness are important.

Mr. Welter's assumption that he would hear from Mr. Wang or Ms. Wang if the smoking issue were ongoing was unreasonable given the email that Ms. Rao sent to Ms. Wang on November 12, 2024. It was reasonable for Ms. Wang to assume when Ms. Rao said, "We are not a smoking free property," that Property Manager was not following the dictates of the Smoking Ordinance and that notifying them of the neighbor's violation of the Ordinance would get nowhere. If in fact Mr. Welter and Ms. Rao were confused about the meaning of the Smoking Ordinance, they should have consulted legal counsel to determine exactly how to respond to Ms. Wang's notice of the smoking problem, but no evidence was presented that they did so.

The CSFRA requires that a tenant demonstrate that the Landlord was provided with reasonable notice, and that the Landlord was provided with "opportunity to correct the conditions..." (CSFRA § 1710(b)(2).) Nothing in the language of the CSFRA requires a tenant to continue notifying and continue providing the landlord with opportunities to correct where the landlord has failed to take appropriate action or indicated that they would not take any further action upon receipt of prior notification. Indeed, if the tenant's obligation to notify and provide an opportunity to correct were read to be continuous, then a tenant would never be able to make a claim for rent reduction under the terms of the CSFRA.

For the foregoing reasons, Petitioner has met his burden of proof that (1) a violation of the Smoking Ordinance and California Health and Safety Code Section 17920.3(c) occurred on the Property and directly impacted the Affected Unit; and (2) Respondent did not address the smoking issue within a reasonable time or in an appropriate manner, and therefore Mr. Wang is entitled to a downward adjustment of rent.

(b) Calculation of Rent Reduction for Smoking

Respondent was first notified of the smoking issue on October 30, 2024. Given the City Council's position that secondhand smoke is detrimental to the public health and welfare, it would have been reasonable for Respondent to commence taking effective steps to resolve the issue within one week of that time, which would have been November 6, 2024. Mr. Wang returned to the Affected Unit on January 8, 2025, and Ms. Wang testified that the smoking issue has subsided for the most part since then. Therefore, the relevant time period for calculating a reduction of rent is November 6, 2024 through January 8, 2025.

The next issue is how the amount of the reduction should be calculated. As discussed earlier, pursuant to CSFRA Section 1710(b), a failure to maintain a rental unit in compliance with governing health and safety and building codes constitutes an increase in rent. Pursuant to CSFRA Section 1714(a), "[a] Landlord who demands, accepts, receives, or retains any payment of Rent in excess of the lawful Rent shall be liable to the Tenant in the

amount by which the payment or payments have exceeded the lawful Rent. In such a case, the Rent shall be adjusted to reflect the lawful Rent..." Section 1710(b)(1) states that in cases of failure to maintain a rental unit in habitable condition, the rent is to be adjusted "downward based on a loss in rental value attributable to the Landlord's failure to maintain the Rental Unit in habitable condition."

Loss in rental value attributable to unsafe or unhealthy conditions is 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.

Given that Mr. Wang vacated the Affected Unit from December 7, 2024 through January 8, 2025, it can be concluded that during that time period, the Affected Unit was of no value to him because of the nuisance created by the neighboring rental unit.³ Therefore, for this time period, the rent reduction is for the full month's rent of \$2,195.00. From November 6, 2024 through December 6, 2024, Mr. Wang was still occupying the Affected Unit; however, he stayed at work longer hours to avoid the nuisance as much as he could, and when he was there at night, he had trouble sleeping. Having to stay away from one's dwelling and having one's sleep disturbed due to a nuisance is reasonably worth 20 percent of the value of the Affected Unit.

The period from November 6, 2024 through December 6, 2024 is one month; the period from December 7, 2024 through January 8, 2025 is one month and one day. The total rent reduction is \$2,648.16.⁴

5. Substantial Compliance

CSFRA Section 1707(f) states that "[n]o Rent increase shall be effective if the Landlord...(2) has failed to maintain the Rental Unit in compliance with Civil Code Sections 1941.1 et

³ In another forum, this might be considered a constructive eviction.

⁴ Calculated as $(\$2,195.00) + (\$2,195.00 \times .2) + (\$2,195.00 \times .2)/31 = \$2,648.16129$. The monthly premises rent of \$2,195.00 is used for calculating the entire period because the rent increase effective January 1, 2025 is invalidated; see Section VII.B.5., below.

seq. and Health and Safety Code Sections 17920.3 and 17920.10...” See, *also*, CSFRA Regulations Ch. 12.B, Table B.5. At the time that Respondent collected the most recent rent increase on January 1, 2025, Respondent was in violation of California Civil Code Section 1941.1 and California Health and Safety Code Section 17920.3(c) because of the nuisance in the form of smoking.⁵ Notably, the notice of the rent increase was served on November 22, 2024, the same day that Respondent received the Inspection Report from Mr. Olson. On January 1, 2025, the effective date of the rent increase, Mr. Wang was still living elsewhere due to his inability to stay in the Affected Unit. Because of the unresolved nuisance issue, pursuant to CSFRA Section 1707(f), the rent increase imposed as of January 1, 2025 is ineffective.

Respondent shall decrease the premises rent to \$2,195.00 and refund to Petitioner the difference between the lawful premises rent of \$2,195.00 and \$2,357.00, the amount of premises rent charged starting on January 1, 2025, as set forth below in Table 1 and in Attachment 2, Award Schedule, appended hereto. The refund shall not include the amount of the One-Time Utility Adjustment.

Month and Year of Payment	Amount of Premises Rent Paid to Landlord	Lawful Premises Rent	Payment in Excess of Lawful Rent
January 2025	\$2,357.00	\$2,195.00	\$162.00
February 2025	\$2,357.00	\$2,195.00	\$162.00
March 2025	\$2,357.00	\$2,195.00	\$162.00
April 2025	\$2,357.00	\$2,195.00	\$162.00
May 2025	\$2,357.00	\$2,195.00	\$162.00
June 2025	\$2,357.00	\$2,195.00	\$162.00
July 2025	\$2,357.00	\$2,195.00	\$162.00
August 2025	\$2,357.00	\$2,195.00	\$162.00
TOTAL			\$1,296.00

The total amount of the refund for unlawful rent for January 1, 2025 through August 1, 2025 is \$1,296.00. Respondent shall also refund amounts as accrued for any subsequent months during which \$2,357.00 was charged for premises rent.

It should be noted that after payment in full of the rent refund awarded by this Decision, Respondent will be allowed to issue a rent increase, including banked amounts pursuant to CSFRA Section 1707(d), provided that said rent increase is issued in a manner consistent with the CSFRA and state law, particularly California Code of Civil Procedure Section 827.

⁵ A violation under Health and Safety Code Section 17920.3 is also a violation under Civil Code Section 1941.1.

Should Mr. Wang believe that the amount of any banked rent increase would be a hardship as defined in CSFRA Regulations, Ch. 7.C, he may file a Hardship Petition with the Rent Stabilization Division. Any such petition must be filed within 10 days of the effective date of the rent increase.

6. Additional Issues Raised by Petitioner During the Hearing

(a) Notice of Violation Regarding Additional Occupant

Ms. Wang raised the issue of the legality of what she believed was a three-day notice to quit posted at the Affected Unit in June 2024. The posted document was in reality a “Written Notice to Cease,” dated June 20, 2024. Mr. Welter testified that it was posted in an attempt to compel Mr. Wang to file a Notice Regarding Additional Occupant form because Respondent alleged that Ms. Wang was overstaying the amount of time allowed under the Lease for guests of tenants to remain in the Affected Unit. Mr. Wang filled out the Notice Regarding Additional Occupant form on June 25, 2024.

The Hearing Officer does not have jurisdiction over the posting of the Written Notice to Cease. See this Decision, Section VII.B.3(a) for a discussion of the authority of the Hearing Officer under the CSFRA and its regulations. Petitioner may pursue this issue in another forum.⁶

(b) Harassment and Retaliation

Ms. Wang testified at the Hearing that she thought that Respondent and Property Manager were intentionally harassing her and retaliating against her. Once again, the Hearing Officer does not have jurisdiction over these issues which may be pursued in another forum. However, the Hearing Officer observes that it would perhaps avoid the filing of further Petitions if Respondent, Property Manager and Mr. Wang would communicate directly and openly with each other in a mature and civil manner.

VIII. CONCLUSIONS OF LAW AND DECISION

1. Respondent unlawfully increased the rent on December 3, 2024 by charging Petitioner for Ms. Wang’s alleged failure to allow entry into the Affected Unit for pest control inspections.

2. Petitioner met his burden of proof that Respondent failed to maintain habitable premises pursuant to CSFRA Sec. 1710(b) due to secondhand smoke entering the Affected Unit.

⁶ It is interesting to note that Respondent posted an official-looking Written Notice to Cease for an alleged lease violation by Mr. Wang but posted a much more innocuous-looking letter to the tenants in [REDACTED] who were found by the Fire Department Building Inspector to be smoking in violation of the Smoking Ordinance.

3. Respondent was not substantially compliant with the CSFRA from November 6, 2024 through January 8, 2025 because of (a) an outstanding notice of violation from the Fire Department concerning the secondhand smoke on the Property, and (b) failure to take action to correct the secondhand smoke violation within a reasonable time, and, therefore, a rent increase noticed and collected during this time period is invalid.
4. The Hearing Officer has no jurisdiction over the following issues: (a) whether there was an unlawful entry into the Affected Unit by Respondent on November 6, 2024 and/or November 9, 2024; (b) whether the posting of a "Written Notice to Cease" on June 20, 2024 was unlawful; and (c) whether Respondent harassed, retaliated against, or discriminated against Petitioner and/or Ms. Wang.
5. The monthly premises rent is rolled back to \$2,195.00.
6. Respondent shall refund to Petitioner the total amount of (a) \$3,944.16, (b) plus any additional amounts exceeding the current lawful rent of \$2,195.00 for the Affected Unit that may have been paid or be paid by Petitioner on or after September 1, 2025.
7. In addition to the amount due in the paragraph above, if Petitioner has paid the \$175.00 charge posted to the tenant rent ledger on December 3, 2024, Respondent shall refund that amount to Petitioner along with the amount stated in paragraph 6, above. If Petitioner has not paid the \$175.00 charge posted to the tenant rent ledger on December 3, 2024, Respondent shall remove the \$175.00 posted charge from the tenant rent ledger.
8. If the Petitioner's monthly rent payments are in arrears, any award due pursuant to this Decision shall be applied as a credit against those arrears before any refund is due from Respondent to Petitioner.
9. In the event that Petitioner does not receive full payment of \$3,944.16 from Respondent as ordered in this Decision within thirty (30) days after the Decision becomes final, Petitioner shall be entitled to withhold rent payments until such time as Petitioner has withheld a total of \$3,944.16, less any sums Respondent has paid directly to Petitioner pursuant to this Decision. Petitioner may refer to Attachment 2, Award Schedule, for a Credit Schedule setting forth the amounts Petitioner may withhold. As set forth 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.
10. 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 premises rent of \$2,357.00 until the appeal decision is final.
11. 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.

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

13. Subject to the paragraph 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.

14. In addition to abiding by the requirements of the paragraph 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 13, above, may Respondent issue a rent increase, provided that they do so in a manner consistent with the CSFRA and California law.

15. 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.

Date: September 23, 2025



Barbara M. Anscher, Hearing Officer

ATTACHMENT 1—EXHIBITS

The following documents were submitted prior to the Hearing, marked, and admitted into evidence:

Hearing Officer's Exhibits

Exhibit #1: Notice of Filing Downward Adjustment of Rent Petition, dated 4/4/2025

Exhibit #2: Notice of Acceptance and Forwarding of Petition, dated 6/10/2025

Exhibit #3: City of Mountain View Fire and Environmental Protection Division Inspection Report, dated 11/22/2024

Exhibit #4: Screenshot of Rent Stabilization Division Community Portal

Exhibit #5: Notice of Prehearing Meeting and Hearing, with attached Hearing Information Sheet, dated 6/23/2025

Exhibit #6: Hearing Officer Prehearing Order, dated 7/15/2025

Exhibit #7: Notice of Hearing Officer Prehearing Order and Notice of Hearing, dated 7/18/2025

Petitioner's Exhibits

Exhibit #1: Tenant Petition "A/B" for Downward Rent Adjustment, with attached proof of service, dated 3/25/2025

Exhibit #2: Lease Agreement, executed on 6/24/2023

Exhibit #3: Communication from Wenjing Wang to [REDACTED], with attached email stream re smoking, dated 11/27/2024

Exhibit #4: Communication from Wenjing Wang to Shi Chao, with attached email stream, dated 11/26/2024

Exhibit #5: Document from mountainview.gov re multi-unit smoking ban

Exhibit #6: Public Records Request, dated 11/19/2023

Exhibit #7: Emails between James Olson and Wenjing Wang, dated 11/12/2024

Exhibit #8: Email from [REDACTED] to Wenjing Wang, dated 12/2/2024

Exhibit #9: Automatic reply email from Patricia Black to Wenjing Wang, dated 10/30/2024

Exhibit #10: Email from Wenjing Wang to [REDACTED] with attached email stream re \$175.00 charge, dated 7/14/2025

Exhibit #11: Email from James Olson to Wenjing Wang with attached email stream, dated 11/26/2024

Exhibit #12: Forty-Eight Hour Notice to Enter Dwelling to Provide Initial (Pre move-out) Inspection, dated 11/3/2023

Exhibit #13: Shichao Wang travel itinerary, dated 12/7/2024

Exhibit #14: Letter to the Hearing Officer, dated 7/25/2025

Respondent's Exhibits

Exhibit #1: Petition Response Form, dated 4/22/2025

Exhibit #2: Lease Agreement, executed on 6/24/2023

Exhibit #3: Notice of Smoking Complaint in Multi-Unit Residences

Exhibit #4: Letter from Reeta Rao re lease violation, dated 11/27/2024

Exhibit #5: Email from Wenjing Wang to Patricia Black with copy to Reeta Rao et al., with attached email stream, dated 11/9/2024

Exhibit #6: Communication from Wenjing Wang to Reeta Rao, dated 10/30/2024

Exhibit #7: Email from James Olson to Steve Welter, with attached email stream, dated 4/22/2025

Exhibit #8: Pest Control Invoice, dated 11/9/2023

Exhibit #9: Twenty-Four Hour Notice to Enter Dwelling Unit, dated 2/13/2024

Exhibit #10: Forty-Eight Hour Notice to Enter Dwelling Unit, dated 11/3/2023

Exhibit #11: Email from Joann Pham to Steve Welter, with attached email stream, dated 7/11/2024

Exhibit #12: Notice Regarding Additional Occupant, dated June 25, 2024

Exhibit #13: Rent Ledger, dated 9/1/2024 through 7/1/2025

Exhibit #14: Mountain View Municipal Code Section 21.53

Exhibit #15: [REDACTED] Pest Control Report, dated 11/6/2023

Exhibit #16: Forty-Eight Hour Notice to Enter Dwelling Unit, date 11/6/2023

The following documents were submitted post-hearing in response to a request from the Hearing Officer and by stipulation of the parties marked and admitted into evidence without objection:

Petitioner's Exhibits

Exhibit #15: Banked Rent Increase Notice, dated 9/1/2024

Exhibit #16: Tenant Rent Ledger from 8/1/2024 through 10/10/2024

Exhibit #17: Email to Rent Stabilization Division re rent increase, undated

Exhibit #18: Notice to Cease, dated 6/20/2024

Exhibit #19: Email to Rent Stabilization Division, dated 6/24/2024

Exhibit #20: Representative Authorization Form, dated 8/12/2025

Respondent's Exhibits

Exhibit #17: Notice to Cease, dated 6/20/2024

Exhibit #18: Email from Reeta Rao to Shichao Wang, dated 9/26/2024

Exhibit #19: Thirty-Day Notice of Change of Monthly Rent (Banked Rent Increase), dated 11/22/2024, with attachment

Exhibit #20: Thirty-Day Notice of Change of Monthly Rent (Banked Rent Increase), dated 7/23/2024, with attachment

Exhibit #21: One-Time Utility Adjustment Petition, dated 5/13/2025

Exhibit #22: Tenant Rent Ledger, 6/23/2023 through 8/1/2025

Exhibit #23: Two photographs of exterior of Property, undated

Hearing Officer Decision re Unlawful Rent

Month/Year of Rent Payment	Actual Premises Rent Paid	Actual		Payments in Excess by Petitioner
		Additional Services Paid	Lawful Rent	
01/2025	\$ 2,357.00	\$ -	\$ 2,195.00	\$ 162.00
02/2025	\$ 2,357.00	\$ -	\$ 2,195.00	\$ 162.00
03/2025	\$ 2,357.00	\$ -	\$ 2,195.00	\$ 162.00
04/2025	\$ 2,357.00	\$ -	\$ 2,195.00	\$ 162.00
05/2025	\$ 2,357.00	\$ -	\$ 2,195.00	\$ 162.00
06/2025	\$ 2,357.00	\$ -	\$ 2,195.00	\$ 162.00
07/2025	\$ 2,357.00	\$ -	\$ 2,195.00	\$ 162.00
08/2025	\$ 2,357.00	\$ -	\$ 2,195.00	\$ 162.00
	\$ -	\$ -	\$ -	\$ -
	TBD	TBD	\$ -	TBD
	TBD	TBD	\$ -	TBD
	TBD	TBD	\$ -	TBD
NT AWARD DUE TO PETITIONER*				\$ 1,296.00

* The total does not include the potential amounts overpaid after 08/15/2025

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	Number of Days Issue Persisted	Monthly Rent	Percentage Reduction	Monthly Reduction (\$)	Daily Reduction (\$)	Total Rent Reduction Awarded
Smoking	11/6/2024	12/6/2024	1		\$ 2,195.00	100%	\$ 2,195.00	\$ 73.17	\$ 2,195.00
	12/7/2024	1/8/2025	1	1	\$ 2,195.00	20%	\$ 439.00	\$ 14.16	\$ 453.16
					\$ -	0%	\$ -	\$ -	\$ -
	TBD	TBD	TBD	TBD	\$ -	0%	\$ -	\$ -	TBD
	TBD	TBD	TBD	TBD	\$ -	0%	\$ -	\$ -	TBD
DAILY REDUCTION AWARD DUE TO PETITIONER**									\$ 2,648.16

** The total does not include the potential amounts overpaid after 08/15/2025

TOTAL REFUND OWED TC \$ 3,944.16

Credit Schedule

Month/Year of Rent Payment	Unpaid Rent Owed to Landlord	Rent Credited to Petitioner	Total Payment to be Paid by Petitioner
10/2025	\$ 2,195.00	\$ 2,195.00	\$ -
11/2025	\$ 2,195.00	\$ 1,749.16	\$ 445.84
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
TOTAL***		\$ 3,944.16	

*** The total does not include the potential amounts overpaid after 08/15/2025

Refund Schedule

Month/Year of Refund Due	Overpayment Type	Refund Due
		\$ 3,944.16
		\$ -
TOTAL		\$ 3,944.16