



HOUSING DEPARTMENT
RENT STABILIZATION DIVISION
 298 Escuela Avenue
 Mountain View, CA 94040
 650-903-6136 | MountainView.gov/RentStabilization

APPEAL OF PETITION HEARING DECISION

Communications and submissions during the COVID-19 Pandemic: To the extent practicable, all communications, submissions and notices shall be sent via email or other electronic means.

Recently, you received a Hearing Officer Decision for a Petition for Adjustment in Rent. If you disagree with the outcome(s) of the decision, you can request an Appeal Hearing before the Rental Housing Committee. Any Party to a petition may file an appeal of the Decision by *-serving a written Request for Appeal on all applicable parties and then filing a copy of the completed form with the Rent Stabilization Division* within **fifteen (15) calendar days** after the mailing of the Petition Decision. If no Appeals are filed within fifteen (15) calendar days, the decision is final.

Please contact our office at 650-903-6136 if you have any questions or for more information about the appeal process. Please review the attached Appeal Information Sheet to learn more.

I hereby Appeal the Hearing Officer's Decision for the following Petition to the Rental Housing Committee:

Petition Case Number: C23240081 and C23240082

Name of Hearing Officer: E. Alexandra DeLateur Decision Date: 12/16/2024

For the following Property Address, including Unit Number(s), if applicable:

<u>169</u>	<u>Castro St</u>	<u>█</u>
<small>(Street Number)</small>	<small>(Street Name)</small>	<small>(Unit Number)</small>

Person Appealing the Hearing Officer Decision (if more than one person is appealing the petition decision, attach their contact information as applicable):

Name: 171 Castro Property LLC (via Etan Z. Fraser) Phone: █

Mailing Address: █ Email: █

I am: A tenant affected by this petition. A landlord affected by this petition.

Instructions:

Please complete the information as requested on page 2. Once you have completed this form and attached all relevant documents, **serve copies on all parties to the petition**. Once served, please file a copy of the form with the Rent Stabilization Division via email (preferred method) to mvrent@mountainview.gov or by mailing to 298 Escuela Ave., Mountain View, CA 94040.

Declaration:

I (we) declare under penalty of perjury under the laws of the State of California that the foregoing and all attached pages, including documentation, are true correct, and complete.

Signature: Etan Digitally signed by Etan
Date: 2024.12.31 20:06:03 -05'00' Date: 12/31/2024

Print Name: Etan Z. Fraser, Esq.

Este formulario está disponible en inglés y mandarín. | 此表格有英文和中文版本。

DISCLAIMER: Neither the Rental Housing Committee nor the City of Mountain View make any claims regarding the adequacy, validity, or legality of this document under State or Federal law. This document is not intended to provide legal advice. Please visit mountainview.gov/rentstabilization or call 650-903-6136 for further information.

Appeal Request Instructions and Examples:

The Hearing Officer Decision states specific claims and requests a rent adjustment based on those claims. For each part of the decision you dispute, clearly state each claim that you are appealing and the legal basis for the appeal. *You can only appeal the matters addressed in the decision. You may submit arguments to support your appeal and refer to the evidence in the record to support your arguments but new evidence that was not previously submitted as part of the hearing record will not be accepted.* To clarify, no new documentation, or evidence will be accepted or considered by the Committee upon appeal.

Appeal Examples by Petition Type

The below provide examples of appeal claims. Each decision presents unique facts and the appeal request for your particular decision must only address the outcomes that are in the decision. Any portion of the hearing officer decision that you do not appeal will be considered final unless appealed by another party to the decision.

Appeal Request Example 1: *The hearing officer erred in finding that the rent violated the legally allowed rent because the hearing officer failed to consider proper rent increase notices that were included in the hearing record that were given consistent with the annual general adjustments.*

Appeal Request Example 2: *The hearing officer erred in finding that the landlord was not entitled to an upward adjustment of rent because the hearing officer failed to include in the calculation of Petition Year Operating Expenses valid operating expenses, evidence of which was submitted as part of the Petition and included in the hearing record, including specifically the failure to include self-performed labor expenses and management expenses.*

Appeal Request Example 3: *The hearing officer erred in finding that the tenant was entitled to a reduction in rent for a decrease in housing services resulting from tenant's parking space being unavailable because the hearing officer failed to consider evidence submitted by the landlord showing that an alternative parking space was made available to the tenant.*

Reasons (Claims) for Appeal:

Please use the space below to clearly identify what issue and part of the Decision is the subject of the appeal (include section headings and subheadings, as necessary and reference to relevant evidence). Thoroughly explain the grounds for the appeal. For each issue you are appealing, provide the legal basis why the Rental Housing Committee should modify, reverse, or remand the Hearing Officer's Decision. *(Continue on the next page; add additional pages if needed.)*

Appeal Request 1 - Building Security: The hearing officer erred in finding that there was a reduction in housing services on the basis that "the [exterior] doors have... self-closing and self-locking mechanisms on them... sometimes not used or maintained, mean[ing] that this level of security is a housing service. If it is not maintained and rent is not reduced, there is a rent increase" [Page 13, Discussion C - Building Security, Written Decision] because there was no evidence submitted proving (1) that any exterior door ever had a self-closing mechanism attached during Petitioner's tenancy; there is only an email from the Petitioner to the successor Landlord alleging there once was one attached to an "upstairs door," in an email dated Friday, July 8th, 2022 [see: Castro_169 T's Emails A-O_Redacted], itself an unsubstantiated claim, or (2) that once the "combo code" lock was installed on the "front exterior door" (a different door - and in this case the existence of the mechanism confirmed by the evidence) the lock was not "used or maintained" by the successor Landlord; the only evidence Petitioner presents are photographs, not videos showing any self-locking malfunction, of open doors, which is not evidence of a self-locking lock not being "used or maintained," and therefore does not prove a reduction in housing services. These are doors that get left open, which no self-locking mechanism can resolve because there is no bore hole to lock into when swung open. We must not conflate the various doors in the building; there is no claim that the "front exterior door" ever had a self-closing mechanism, nor that the "upstairs door" ever had a self-locking mechanism. With regards to the latter door, there appeared to be an issue of doors being left open both before and after the lock switch, indicated no change in status quo. The preponderance of evidence standard is instructive: "after weighing all of the evidence if you cannot

Reasons (Claims) for Appeal (Continued):

Please use the space below to clearly identify what issue and part of the Decision is the subject of the appeal (include section headings and subheadings, as necessary). Thoroughly explain the grounds for the appeal. For each issue you are appealing, provide the legal basis why the Rental Housing Committee should modify, reverse, or remand the Hearing Officer's Decision. (*Continue on the next page; add additional pages if needed.*)

decide that something is more likely to be true than not true, you must conclude that the party did not prove it." [see: California Civil Jury Instructions, No. 200]. There is no evidence to determine one way or the other whether or not a self-closing mechanism previously existed on the "upstairs door". The combo lock [see: page 13, T's Photos re Unsecured Doors] would self-lock if the door were closed. There was no reduction in housing service, and consequently the Section VIII(3) award to Petitioner should be reversed.

Appeal Request 2 - Alleged Electrical Meter Over-billing: The hearing officer erred in finding that "all parties agree that there was an electricity meter mix-up where... another unit's usage was added to [Petitioner's] bill" Page 15, Discussion C - Electricity Meters , Written Decision]. To the contrary, during the hearing, a recording of which is available, Petitioner and Respondent both specifically acknowledged that there was, as the hearing officer states, a "meter mix-up" -- Petitioner was paying for a different apartment's energy bills and a different apartment possessor (Landlord) was paying for Petitioner's apartment's energy bills. No bill was "added". Further, petitioner submitted no evidence indicating that he was overpaying utilities - he merely submitted a graph, with no axes on it, that appear to show a baseline purple trending average energy usage line that sits well above Petitioner's usage in blue [see: T's PG&E Usage Details pdf], indicating that he has actually been saving on utilities, which is understandable given the lower energy usage nature of short-term vs. long-term rentals because of vacancy periods; the other apartments are rented on a short-term basis. Accordingly, the Section VIII(4) award to Petitioner should be reversed.

Appeal Request 3 - Improper Service on Ms. A■■■■ K■■■: The hearing officer erred in finding that A■■■■ K■■■ was a Landlord's agent of Respondent by improperly giving greater evidential weight to A■■■■ K■■■'s overtures to Petitioner on sale: "by providing information on behalf of Respondent and asking for information from the Petitioner on behalf of Respondent" [Section VI.(13), Written Decision], than the hearing officer did to A■■■■ K■■■'s express communication to Petitioner on June 14th, 2024 at 5:41pm [see: T's Email's re: electrician] when she explicitly wrote to Petitioner: "Owner might have management company who handles all tenants' issues. In any case, owner has been CCed above. He'll make decision as to how to communicate with you," and again writing at 8:57pm to Petitioner: "Anchor Property is the management company for this property. Any issues should be addressed to them directly. Please find attached for the property management company contact info." By the time Petitioner submitted his Petition to the rent board on June 17th 2024, he had both (1) the agent's information with actual authority (Anchor Property Group) who is responsible for Landlord-Tenant matters, and (2) the new Landlord's email, as he was copied ("CC'd") into Ms. K■■■'s 5:41pm June 14th email. Petitioner was under no impression that A■■■■ K■■■ was the proper recipient of service at time of service; Petitioner had Landlord's email address. The Preponderance of the evidence clearly shows that A■■■■ K■■■ was not an agent of the Landlord with respect to matters concerning Landlord-Tenant relations, and therefore the Petition was not properly served when sent to Ms. K■■■, and therefore any decision rendered in this matter must be reversed.

Proof of Service of Request for Appeal of Petition Hearing Decision

I declare that I am over eighteen years of age, and that I served one copy of the attached Appeal of Petition Hearing Decision after Remand on the affected party(ies) listed below by:

Personal Service

Delivering the documents in person on the 31 day of December, 2024, at the address(es) or location(s) above to the following individual(s).

Mail

Placing the documents, enclosed in a sealed envelope with First-Class Postage fully paid, into a U.S. Postal Service Mailbox on the 31 day of December, 2024, addressed as follows to the following individual(s).

Email

Emailing the documents on the 31 day of December, 2024, at the email address(es) as follows to the following individual(s).

Respondents

Daniel Kelley
169 Castro St [REDACTED], Mountain View, CA
[REDACTED]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Executed on this 31st day of December, 2024

Signature:

Etan

Digitally signed by Etan
Date: 2024.12.31 20:05:47 -05'00'

Print Name:

Etan Z. Fraser, Esq.

Address:

[REDACTED]