

1 Law construed:
2 Ordinance Sections: 37.2(r)&(t); 37.3(a); 37.8(f)
3 Rules and Regulations Sections: 1.21; 11.18
4 Index Code: A45; A49

5 **RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD**

6 **CITY AND COUNTY OF SAN FRANCISCO**

7 IN RE: 1464 LA PLAYA STREET, UNIT #306

CASE NO. L240704

8 DAVID BANKS, LEON BANKS, and JOHN
9 PALMER,

HEARING: OCTOBER 3, 2024
RECORD CLOSED: DECEMBER 4, 2024

10 LANDLORD PETITIONERS,

DECISION

11 and

12 HEATHER SPIRO and LELAND SPIRO,

TENANT RESPONDENTS.

13 **INTRODUCTION**

14 This case involves a landlord petition filed on July 3, 2024, seeking a determination of
15 whether the landlord is entitled to an unlimited rent increase pursuant to Rent Board Rules and
16 Regulations Section 1.21.

17 A remote hearing was held on October 3, 2024, at which time the following people
18 appeared by audio and video conference: Curtis F. Dowling, attorney representative for the
19 landlords; Brady Stern, non-attorney representative for the landlords; Natascha Hoover and Dan
20 Lopez, property managers; Tava Miyata, witness for the landlords; and Heather and Leland Spiro,
21 tenant respondents. At the hearing, the parties had full opportunity to present relevant evidence
22 and testimony under oath.

23 After the hearing, the record was held open until October 25, 2024 for the submission of
24 additional evidence from both parties. The Rent Board received a submission from the landlord
25 on October 4, 2024. A request from both parties to extend the open record was granted until
26 November 1, 2024. No submissions were received before November 1, 2024, and the record
27 closed that day. The Rent Board received a submission from the landlord on November 4 and 13,
28 and from the tenants on November 5, 2024. In the interests of justice and the complete record,

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2 the record was reopened to accept the late submissions, and extended until November 27, 2024
3 for any final submissions from the tenants, and until December 4, 2024 for any landlord
4 responses. The Rent Board received a submission from the tenants on November 27, 2024, and
5 from the landlord on December 4, 2024. The record closed on December 4, 2024.

6 All of the submitted documentation has been reviewed and considered by the undersigned
7 Administrative Law Judge (ALJ), along with the sworn testimony at the hearing. It is noted that the
8 submitted evidence and testimony will be addressed in this Decision only to the extent that it is
9 relevant to the determination of whether the landlord was entitled to a rent increase over the
10 allowable limits. The landlord's private investigator's report was redacted by Rent Board staff as
11 per the tenants' request. The landlord's submission on December 4, 2024 included a second
12 copy of the private investigator's report. This second copy of the report is rejected as duplicative.

13 FINDINGS OF FACT

14 1. The subject property is located at 1464 La Playa Street in San Francisco and has
15 24 residential units on 3 floors above a garage. Subject unit #306 is a 2-bedroom, 1-bathroom
16 unit on the top floor of the building. The tenancy includes storage room in the garage, as well as a
17 parking spot on the property. David Banks, Leon Banks, and John Palmer (hereinafter referred to
18 as "landlords") have owned the subject property since 2002. Montgomery Capital Management
19 has managed the property since the landlords acquired it. Natascha Hoover is a resident
20 manager who has managed the property since July 2021. Dan Lopez is a regional manager who
21 has overseen the management of the property since April 2022.

22 2. Tenant respondents Heather and Leland Spiro, a married couple (hereinafter
23 referred to as "tenants"), entered into a written agreement to rent the subject unit from the
24 landlords' predecessor in interest, with the tenancy commencing on February 7, 1983 at an initial
25 monthly rent of \$580.00. (Tenant Pre-Hearing Submission, pg. 11) The parties stipulated that
26 Leland Spiro has primarily resided in Stockton, California, since at least 2012.

27 3. Property manager Natascha Hoover testified as follows. She moved into unit #204
28 as the resident manager of the subject building on July 15, 2021. She saw tenant Heather Spiro

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2 on the subject property in the Fall of 2021, and the beginning of 2022. She never saw Leland
3 Spiro until the hearing. As a pattern, Ms. Hoover saw Mrs. Spiro 2-4 times in the hallway, inside
4 the garage, or walking to exercise, over a two-month period, and then spent months not seeing
5 her on the property. In total, Ms. Hoover saw Mrs. Spiro approximately 40 times since July 2021.
6 In contrast, Ms. Hoover generally sees the other residents of the building weekly. She completes
7 routine checks of the property twice a day and has not taken vacations since she moved into the
8 building. She noticed that Mrs. Spiro did not participate in the 3-4 social events organized for the
9 residents of the building every year, and mail regularly stacked up for the subject unit, indicating
10 lengthy periods of absence by the tenants. Ms. Hoover entered the subject unit approximately 3
11 times and took photos of the inside in 2021. The unit was cluttered with belongings, with one
12 bedroom stacked full of papers and boxes. The building underwent a fire alarm upgrade
13 approximately one year ago, but Mrs. Spiro denied entry into the unit, preventing completion of
14 the upgrade in the unit. The difficulty in pinning down a time to gain access to the unit for
15 maintenance issues, combined with tenant comments about not being present to grant access,
16 brought the question of occupancy in the unit to a head. The landlords submitted photos of the
17 inside of the subject unit, showing a room stacked high with boxes, bags, papers, and beddings,
18 another room stacked high with books and papers, clothes hung along the ceiling, and piles of
19 belongings on either side of a narrow walkway. (9/30/24 Landlord Pre-Hearing Submission, pgs.
20 2-6)

21 4. In response to Ms. Hoover's testimony, tenant Heather Spiro testified as follows.
22 She lives on the third floor of the building, and Ms. Hoover lives on the second floor, so they do
23 not always see each other on the property. Ms. Hoover only entered the subject unit once in 2021
24 to inspect a slight dripping from the bathroom faucet. She did not return after that. Mrs. Spiro
25 suffered a serious fracture in her left hand at the beginning of 2024, requiring use of a brace until
26 the end of October 2024, which prevented her from cleaning and moving things in the unit for the
27 alarm upgrade. She receives a large amount of mail, and has tried to divert most of it to a PO Box
28 in San Francisco. However, she still has a lot of papers in the unit and is waiting to recover before

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2 cleaning up.

3 5. Private investigator Tava Miyata submitted a report and testified as follows. She
4 was retained in June 2024 by the landlords to find the tenants' principal place of residence.
5 Address history databases identified three current addresses for Heather Spiro: the subject unit in
6 San Francisco, a PO Box in San Francisco, and a house in Stockton. (10/2/24 Landlord Pre-
7 Hearing Submission, pgs. 11-15) These databases use information from credit-reporting
8 agencies, generally updated monthly, annually, or biannually. The initial reporting dates typically
9 indicate when a person moves to the new address. Here, the databases included recent reporting
10 dates in 2024 for the three current addresses, and earliest initial reporting dates of 1/1/83 for the
11 subject unit, 12/18/75 for the PO Box, and 10/2006 for the Stockton house. Telephone number
12 databases and contact of online Directory Assistance identified two cell phone numbers
13 associated with Heather Spiro, with a 415 area code, located in Stockton. (10/2/24 Landlord Pre-
14 Hearing Submission, pgs. 15-18) Property ownership records indicated only the Stockton house
15 associated with Heather Spiro. (10/2/24 Landlord Pre-Hearing Submission, pgs. 19-27) Ms.
16 Miyata called and received confirmation from the San Joaquin County Assessor's Office that the
17 tenants own a house in Stockton, which was inherited by Leland Spiro in 2007, and then granted
18 to Heather Spiro as community property in 2008. She also confirmed that a homeowner's
19 exemption has been claimed on the Stockton house by the tenants since 2008. A vehicle sighting
20 database search for a Honda Civic associated with Heather Spiro reported 10 sightings at the
21 Stockton house, and none in San Francisco, from October 2022 through June 2024. (10/2/24
22 Landlord Pre-Hearing Submission, pgs. 33-35) However, the database records sightings from
23 photos taken from the street, which do not capture vehicles parked in a garage. A search of voter
24 registration records indicated that Heather Spiro registered to vote in San Francisco, and voted in
25 elections from 11/8/16-3/5/24 in San Francisco County. (10/2/24 Landlord Pre-Hearing
26 Submission, pgs. 37-45) Ms. Miyata did not find evidence of current employment for Heather
27 Spiro. A self-reporting profile on LinkedIn for Heather Spiro states the following in relevant part: "I
28 am now retired from teaching...I was a substitute teacher in Daly City, California...I presently

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2 divide my time between San Francisco and Stockton, CA." (10/2/24 Landlord Pre-Hearing
3 Submission, pgs. 51-52) In all, her findings led Ms. Miyata to conclude that the principal place of
4 residence for both tenants is in Stockton, California.

5 6. The landlords submitted the following additional supporting documents:

6 a. A photo showing the exterior of the tenants' house in Stockton. (Attachment to Petition,
7 pg. 5)

8 b. A Interspousal Transfer Deed, recorded on March 4, 2008, transferring the Stockton
9 house from Leland Spiro's separate property to Leland and Heather Spiro's community property.
(Attachment to Petition, pgs. 14-15)

10 c. A copy of the property tax statement for the Stockton house (fiscal year July 1, 2023-
11 June 30, 2024), showing a homeowner's exemption claimed. (Attachment to Petition, pg. 22)

12 7. During cross-examination from landlord attorney Curtis Dowling, tenant Heather
13 Spiro testified as follows. The property Leland Spiro inherited in Stockton is a one-story house,
14 with 2 large bedrooms, a den, a large living room and dining room, a kitchen, an alcove, a laundry
15 room, and 1.5 bathrooms. The tenants began traveling back and forth from San Francisco to the
16 Stockton house in 2007, after Mr. Spiro's mother passed away. Soon after, they made
17 improvements to the Stockton house, such as installing air conditioning and remodeling the
18 kitchen, to make personal use of the house. Mr. Spiro moved to the Stockton house in 2012 after
19 retiring, and started caring for a dog named Lucky. The tenants are not allowed to have dogs in
20 the subject unit, so they kept Lucky in Stockton. Mrs. Spiro continued to work in San Mateo
21 County (near San Francisco) as an educator until she retired in 2019. While working, she spent
22 most of her time occupying the subject unit and visiting her husband and Lucky in Stockton during
23 vacations and holidays. After retirement, Mrs. Spiro continued traveling between San Francisco
24 and Stockton. In Stockton, she spent time with her husband, enjoyed taking Lucky out for walks
25 (until Lucky passed away in June 2024), helped clean the Stockton house (the tenants have kept
26 the Stockton house free of clutter), and helped purchase appliances for the Stockton house. In
27 San Francisco, Mrs. Spiro watered her plants, went through her mail, and tended to her

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2 friendships and commitments in the city. She also preferred the temperate weather in San
3 Francisco, and enjoyed the ocean views from the subject unit. She could not give an exact
4 accounting of her time spent in the subject unit without closer review of her calendar (a copy of
5 her calendar was not submitted). However, she spent approximately 55% of her time in the
6 subject unit, and 45% of her time in the Stockton house in 2024, never spending more than 6
7 continuous weeks in Stockton. She stayed in Stockton from January 10 to February 9, 2024 while
8 managing a rat problem in the house. Then, she stayed in the subject unit for almost 2 months
9 starting in February 2024 while dealing with attempted break-ins in San Francisco. She keeps
10 most of her clothes in the subject unit, and few personal belongings in Stockton. Due to the
11 COVID pandemic, the tenants have not had guests at the subject unit since 2019. Mr. Spiro had
12 some friends come to the Stockton house on occasion in the past. Mrs. Spiro's doctors are in San
13 Francisco, her dentist in nearby Daly City, and her pharmacy is in San Francisco. She has a
14 physical therapist for her wrist in Stockton. Sometimes she picks up refills for her medications in
15 Stockton. The tenants have an informal arrangement for Mr. Spiro to manage bills related to the
16 Stockton house, and Mrs. Spiro to manage bills related to the subject unit in San Francisco. They
17 file joint tax returns in Stockton, where it is convenient to prepare the paperwork together.

18 8. The tenants submitted a written statement, claiming the following in relevant part.
19 Leland Spiro signed an older version of the homeowner's exemption form, received by the San
20 Joaquin County Assessor Recorder's Office on June 7, 2007, before Mrs. Spiro was added to the
21 deed of the Stockton house. Mrs. Spiro was not aware of the homeowner's exemption and did not
22 sign any form claiming such an exemption. Mr. Spiro acquired a dog, Lucky, on February 11,
23 2013. Lucky lived with Mr. Spiro in Stockton until Lucky's passing on June 15, 2024. Mrs. Spiro
24 has always voted in San Francisco, and her vehicle registration, driver's license, and Wells Fargo
25 checking account are located in San Francisco. She maintains a PO Box in San Francisco
26 because she receives a lot of mail, she spends time at two different locations (Stockton and San
27 Francisco), and for mail safety. She transferred her voting material to the PO Box after her voter
28 guide for the November 2012 election was stolen. (10/1/24 Tenant Pre-Hearing Submission, pgs.

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1-6) The tenants submitted the following supporting documents:

a. Election mail addressed to Heather Spiro at a PO Box, dated in November 2018 and March 2024, and to "Current Resident" at the subject unit address, for the November 2024 elections. Mrs. Spiro's polling place is listed as 4242 Lawton St. in San Francisco. (10/1/24 Tenant Pre-Hearing Submission, pgs. 18-22)

b. A DMV registration card for a 2006 Honda, valid from 5/8/24 to 5/8/25, registering Heather Spiro as the owner with a PO Box for the address. The tenants also included Heather Spiro's redacted driver license, which also lists the PO Box address. (10/1/24 Tenant Pre-Hearing Submission, pg. 24)

c. A void check from Wells Fargo bank, showing Heather Spiro's name and the subject unit address. (10/1/24 Tenant Pre-Hearing Submission, pg. 24)

d. PG&E statements for gas and electricity, addressed to Heather Spiro, for service at the subject unit from 5/19/23-10/16/24. (10/1/24 Tenant Pre-Hearing Submission, pgs. 26-68; 11/5/24 Tenant Post-Hearing Submission, pgs. 19-23) Heather Spiro testified that the statements give an indication of when she was in the subject unit, with utility usage increasing when she is present and decreasing when she is away. She also testified that she typically uses less electricity during the summer months because she receives natural sunlight in the unit and more heat on the top floor from the units below. However, in written statements the tenants argue that utility usage below the "Average Daily Usage" line as shown in the PG&E statements is not an accurate indicator of when Mrs. Spiro was absent from the subject unit. (11/27/24 Tenant Post-Hearing Submission, pg. 2) As an example, the tenants identify two days when the utility usage dips below the average, yet Mrs. Spiro's calendar listed medical appointments in San Francisco on those days. She submitted evidence of the appointments. (11/27/24 Tenant Post-Hearing Submission, pgs. 11-12)

e. AT&T bills addressed to Heather Spiro at the PO Box, for a phone number with a 415 area code, for service from 10/10/23-10/9/24. (10/1/24 Tenant Pre-Hearing Submission, pgs. 70-80; 11/5/24 Tenant Post-Hearing Submission, pg. 18)

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2 f. An unsigned copy of the tenants' 2022 joint tax return, listing both tenants as retired,
3 and using the PO Box as the home address. (10/1/24 Tenant Pre-Hearing Submission, pgs. 85-
4 87)

5 g. Credit card statements for the main card Heather Spiro currently uses. (11/5/24 Tenant
6 Post-Hearing Submission, pg. 6) The statements are addressed to Heather Spiro at the PO Box
7 and show transactions with retailers in San Francisco/Daly City from December 22 through
8 December 28, 2023, February 22 through April 24, June 7 and 8, July 2 through July 15 and
9 August 21 through September 4, 2024. They show transactions with retailers in Stockton from
10 November 29 through December 16, 2023, April 30 through June 5, June 15 through June 29,
11 July 20 through August 13, and September 12 through October 26, 2024. In all, the statements
12 indicate a total of 50 transactions in San Francisco, and 62 transactions in Stockton, from
13 November 29, 2023 through October 26, 2024. (11/27/24 Tenant Post-Hearing Submission, pgs.
14 14-25)

15 h. An Allstate statement for renters' insurance covering the subject unit from August 6,
16 2024 through August 6, 2025, naming the tenants as policy holders and addressed to the tenants
17 at the PO Box. (10/1/24 Tenant Pre-Hearing Submission, pgs. 89-90)

18 i. A list of Heather Spiro's doctors, signed by Mrs. Spiro and dated August 31, 2024,
19 naming four doctors and a dentist in San Francisco and Daly City. (10/1/24 Tenant Pre-Hearing
20 Submission, pgs. 92-93)

21 j. A letter from a doctor from The Permanente Medical Group, diagnosing Heather Spiro
22 with a severe sprain in her left hand, and recommending she not lift heavy objects on 7/5/24 and
23 from 8/1/24-10/31/24. (10/1/24 Tenant Pre-Hearing Submission, pgs. 95-96) A letter from the
24 radiology department comments that Mrs. Spiro's x-ray shows a possible fracture in her hand,
25 and a letter from another doctor recommends not lifting heavy objects from 11/1/24-1/31/25.
26 (11/5/24 Tenant Post-Hearing Submission, pgs. 30-32) In a written statement, the tenants claim
27 in relevant part: "she (Mrs. Spiro) needs more time in order to heal her left hand and wrist and
28 thus the big clean up in their apartment will need to be postponed for a few more months."

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2 (11/5/24 Tenant Post-Hearing Submission, pg. 5)

3 k. A "vehicle registration form" for parking at the subject building, filled out by Heather
4 Spiro, listing her vehicle as a 2006 Honda Civic Hybrid. The form is dated August 24, 2024, and
5 warns residents at the subject property that unregistered vehicles may be towed at the owners'
6 expense. (10/1/24 Tenant Pre-Hearing Submission, pg. 98)

7 l. Three signed letters from residents of the subject property. A letter from Robert
8 Bambaugh, dated August 30, 2024, states in relevant part: "I live in apartment #305 and have
9 lived next to Mrs. Spiro since 2009. I can hear Mrs. Spiro talking on the phone, watching TB, or
10 moving about in her kitchen (though it doesn't disturb me) ... Mrs. Spiro and I talk whenever we
11 run into each other outside of our units." (10/1/24 Tenant Pre-Hearing Submission, pg. 100) A
12 letter from Christina Christiano in apartment #303, dated August 24, 2024, states in relevant part:
13 "I have been a tenant at Oceanview Apartments for just over 5 years. Heather Spiro is my
14 neighbor. We live on the same floor, and I am retired, so we often run into each other when she is
15 coming back from the grocery store or taking down garbage." (10/1/24 Tenant Pre-Hearing
16 Submission, pg. 101) A letter from Diane Fredericks in apartment #202, dated August 25, 2024,
17 states: "I met my neighbors, Heather and Lee Spiro, when I moved into Oceanview Apartments in
18 2006. I used to see Heather going out for morning walks and going to and returning from her
19 teaching jobs. Now that we're both retired, I see Heather bringing groceries, heading to her home
20 on the third floor. Lee lives in Stockton now, in the house he inherited from his mother, but
21 Heather still lives here in Apt. 306." (10/1/24 Tenant Pre-Hearing Submission, pg. 102)

22 m. Emails from Heather Spiro, dated in February 2024, discussing the proposed fire
23 system upgrades and describing destruction of the tenants' security device as unapproved
24 attempts to enter the subject unit during their absence from the building. Mrs. Spiro's email dated
25 February 15, 2024 states in relevant part: "When you became manager of this building, I told you
26 very soon after about out security device, particularly as I am often away from this building and in
27 another location, Stockton...I have a badly sprained left hand and wrist and just had an
28 appointment with a physician...He has advised me that it will take about six weeks to heal

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2 properly...I have a lot of heavy objects in front of the closets and any clothes inside of them so
3 this work will have to wait...I really need to find someone who can assist me in cleaning up this
4 apartment but this will have to wait until my hand and wrist are fully healed." (10/1/24 Tenant Pre-
5 Hearing Submission, pg. 110) In her email, dated February 29, 2024, Mrs. Spiro states in relevant
6 part: "I telephoned HomeBridge on Market Street, SF, to see if I could get some help in cleaning
7 up this apartment...I will have to research other avenues to try to get this work done...In the
8 meantime, would you please advise me (Heather) via email, if Montgomery Partners is still willing
9 to reimburse us \$500.00 to help with the cleanup process in this apartment. (10/1/24 Tenant Pre-
10 Hearing Submission, pg. 108)

11 n. Emails from Heather Spiro, dated in May and July 2024, complaining about the tension
12 on the 3rd floor elevator door. (10/1/24 Tenant Pre-Hearing Submission, pgs. 105-107) In the
13 emails she claims to have difficulty opening the elevator door, especially with her wrist and back
14 issues. In her email dated May 23, 2024, Mrs. Spiro states in relevant part: "I have been seeing a
15 physical therapist in Stockton for my left hand and back problems...and I have discussed the
16 above problems about the elevator doors with him." (10/1/24 Tenant Pre-Hearing Submission, pg.
17 107) In her email dated May 25, 2024, Mrs. Spiro mentions that she will be returning to San
18 Francisco on May 29. (10/1/24 Tenant Pre-Hearing Submission, pg. 106) In her email dated July
19 14, 2024, Mrs. Spiro states that she has a phone appointment scheduled for July 25, 2024 with
20 her Kaiser doctor. (10/1/24 Tenant Pre-Hearing Submission, pg. 105)

21 o. A rent increase notice addressed to the tenants, dated August 1, 2024, increasing the
22 monthly rent from \$1,276.13 to \$2,600.00 effective 90 days after service (November 1, 2024),
23 pursuant to Rules and Regulations Section 1.21. (10/1/24 Tenant Pre-Hearing Submission, pgs.
24 115-116)

25 9. Landlord attorney Curtis Dowling submitted several briefs with arguments in favor
26 of granting the rent increase pursuant to Rules and Regulations 1.21, summarized as follows.
27 The tenants' principal place of residency became the Stockton house upon their respective
28 retirements: for Leland Spiro at least since 2012, and for Heather Spiro since around 2020.

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2 Heather Spiro's usual place of return is the Stockton house, where her husband has lived for
3 many years (with their dog, Lucky, until recently), while the subject unit has become a storage
4 unit for belongings. The tenants have together claimed a homeowner's tax exemption on the
5 Stockton house since Heather Spiro was added to the title in 2008, and the exemption constitutes
6 a legal claim of residency at the house. Mrs. Spiro has personal belongings at the Stockton
7 house, and co-owns everything in the house with her husband. Yet, the house is not cluttered,
8 unlike the subject unit. The PG&E statements provided by the tenants indicate that Heather Spiro
9 spends as much as 75% of her time away from the unit. If utility usage below the average daily
10 usage line translates to time outside of the subject unit, Mrs. Spiro would have spent 76 days in
11 the unit and 155 days absent from the unit from January 1 through August 18, 2024. The data
12 from Mrs. Spiro's credit card statements supports the landlord's reading of the PG&E statements
13 indicating the majority of time spent away from the subject unit. The tenants did not provide other
14 evidence regarding time spent in the subject unit, such as the calendar Mrs. Spiro mentions in her
15 testimony and written statements. Other documents provided by the tenants do not indicate that
16 Mrs. Spiro uses the subject unit as her principal residence because they list a PO Box for the
17 mailing address (not the unit address), and/or do not include dates for the relevant time period
18 (prior to July 3, 2024, when the instant petition was filed). (11/4/24 Landlord Post-Hearing
19 Submission, pgs. 1-30; 11/13/24 Landlord Post-Hearing Submission, pgs. 1-6; and 12/4/24
20 Landlord Post-Hearing Submission, pgs. 1-6)

21 CONCLUSIONS OF LAW

22 1. At all times relevant to this petition, the subject unit is within the jurisdiction of the
23 Rent Board. [Ordinance Section 37.2(r)]

24 2. The tenants have the burden of proving that there has been a rent increase in
25 excess of the limitations set forth in the Ordinance. [Ordinance Section 37.8(b)(2)(A); Rules and
26 Regulations Section 11.18] The landlords have the burden of showing that a rent increase in
27 excess of the limitations is justified. [Rules and Regulations Section 11.18]

28 Rules and Regulations Section 1.21

1 3. Ordinance Section 37.2(t) defines a "tenant" as "a person entitled by written or
2 oral agreement, sub-tenancy approved by the landlord, or by sufferance, to occupy a residential
3 dwelling unit to the exclusion of others."

4 4. Ordinance Section 37.3(a) limits rent increases for a "tenant in occupancy." When
5 there is no tenant in occupancy in the unit, the rent increase limitations in the Ordinance do not
6 apply, and the rent may be increased without limitation.

7 5. Rules and Regulations Section 1.21 defines "tenant in occupancy" as follows:

8 "A tenant in occupancy is an individual who otherwise meets the definition of tenant as
9 set forth in Ordinance Section 37.2(t), and who actually resides in a rental unit or, with
10 the knowledge and consent of the landlord, reasonably proximate rental units in the
11 same building as his or her principal place of residence. Occupancy does not require that
12 the individual be physically present in the unit or units at all times or continuously, but the
13 unit or units must be the tenant's usual place of return. When considering whether a
14 tenant occupies one or more rental units in the same building as his or her "principal
15 place of residence," the Rent Board must consider the totality of the circumstances,
16 including, but not limited to the following elements:

17 (1) the subject premises are listed as the individual's place of residence on any motor
18 vehicle registration, driver's license, voter registration, or with any other public agency,
19 including Federal, State and local taxing authorities;

20 (2) utilities are billed to and paid by the individual at the subject premises;

21 (3) all of the individual's personal possessions have been moved into the subject
22 premises;

23 (4) a homeowner's tax exemption for the individual has not been filed for a different
24 property;

25 (5) the subject premises are the place the individual normally returns to as his/her home,
26 exclusive of military service, hospitalization, vacation, family emergency, travel
27 necessitated by employment or education, or other reasonable temporary periods of
28 absence; and/or

 (6) Credible testimony from individuals with personal knowledge or other credible
evidence that the tenant actually occupies the rental unit or units as his or her principal
place of residence.

A compilation of these elements lends greater credibility to the finding of "principal place
of residence" whereas the presence of only one element may not support such a finding."

6. A landlord who seeks a determination that a tenant is not a "tenant in occupancy"
under Section 1.21 must petition for an arbitration hearing prior to issuing a notice of rent

1 increase on such grounds. [Rules and Regulations Section 5.10] Any petition seeking a
2 determination that a tenant is not a tenant in occupancy shall be expedited. [Rules and
3 Regulations Section 5.10] In this case, prior to serving the subject rent increase notice dated
4 August 1, 2024, the landlords petitioned the Rent Board for a determination of whether Leland
5 Spiro and Heather Spiro are tenants in occupancy subject to the rent increase limitations of the
6 Rent Ordinance.

7 7. Pursuant to Section 1.21, occupancy does not require that a tenant be physically
8 present in the subject unit at all times or even continuously, but the unit must be the usual place
9 of return exclusive of family emergency, travel necessitated by employment, or other reasonable
10 periods of absence.

11 8. In this case, it was undisputed that only tenant respondent Heather Spiro claimed
12 the subject unit as her residence. The availability of an unlimited rent increase in this case thus
13 depends on whether tenant respondent Heather Spiro actually resided in the subject unit as her
14 "principal place of residency" within the meaning of Rules and Regulations Section 1.21. Based
15 on all the evidence, the undersigned Administrative Law Judge finds that the landlords met their
16 burden of proving that Heather Spiro was not a "tenant in occupancy" when the petition was filed
17 on July 3, 2024. It is undisputed that Leland Spiro inherited a house in Stockton, California, and
18 started living in the house since at least 2012. While the evidence established that Heather Spiro
19 travels frequently between the subject unit in San Francisco and the Stockton house, for which
20 she obtained co-ownership rights, the undersigned Administrative Law Judge finds that Mrs.
21 Spiro was not a tenant in occupancy at the time the petition was filed within the meaning of Rent
22 Board Rule 1.21. This determination is supported in part by the homeownership exemption
23 claimed on the Stockton house property tax, the tenants' testimony regarding time spent in the
24 subject unit, PG&E bills showing limited usage at the subject unit, and the photos taken in 2021
25 showing boxes and papers stacked high throughout the subject unit. Accordingly, the rent
26 increase from \$1,276.13 to \$2,600.00 per month was authorized by Rules and Regulations 1.21
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1 and is effective November 1, 2024 pursuant to the rent increase notice dated August 1, 2024.

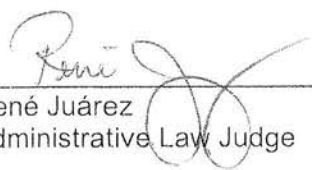
2 **ORDER**

3 1. Petition L240704 is granted.

4 2. It is determined that the rent increase from \$1,276.13 to \$2,600.00 per month was
5 authorized by Rules and Regulations Section 1.21, and is effective November 1, 2024 pursuant to
6 the rent increase notice dated August 1, 2024.

7 3. This Decision is final unless the Rent Board vacates the decision following an
8 appeal to the Board. The parties must file appeals no later than 15 calendar days from the date of
9 the mailing of this Decision, *on an appeal form available from the Rent Board*. [Ordinance Section
10 37.8(f)(1), emphasis added] If the fifteenth day falls on a weekend or legal holiday, then the
11 parties may file their appeals on the next business day.
12

13
14
15 Dated: January 20, 2025

16 
17 René Juárez
18 Administrative Law Judge



Residential Rent Stabilization and Arbitration Board City & County Of San Francisco

<p>Esta notificación puede afectar a sus derechos como propietario o inquilino. Si necesita ayuda para entender este aviso, por favor llame al 415-252-4600.</p>	<p>本項公告可能會影響您身為房東或房客的權利。如果您需要協助來了解本項公告,請致電 415-252-4600。</p>	<p>Posibleng maapektuhan ng abisong ito ang inyong mga karapatan bilang nagpapaupa (landlord) o umuupa (tenant). Kung kailangan ninyo ng tulong upang maintindihan ang abisong ito, pakitawagan ang 415-252-4600.</p>
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Proof of Service

Proof of Service page 1

CASE NO. L240704

I am over the age of 18, not a party to this case, and am employed at 25 Van Ness Avenue #320, San Francisco, California, 94102. I served a copy of the attached:

DECISION

regarding the property at **1464 La Playa Street, #306** by placing a true copy in a sealed envelope with postage prepaid in the United States mail at San Francisco, California, on the date shown below, and addressed to the parties as shown below.

Name	Property Address	Mailing Address
Landlord Petitioner		
David Banks		c/o Dowling & Marquez, LLP 625 Market Street #4th Floor San Francisco, CA 94105
Leon Banks		c/o Dowling & Marquez, LLP 625 Market Street #4th Floor San Francisco, CA 94105
John Palmer		c/o Dowling & Marquez, LLP 625 Market Street #4th Floor San Francisco, CA 94105
Landlord Attorney		
Curtis F. Dowling		Dowling & Marquez, LLP 625 Market Street #4th Floor
Tenant Respondent		
Leland Spiro	1464 La Playa Street #306 San Francisco, CA 94122	1464 La Playa Street #306 San Francisco, CA 94122
Heather Spiro	1464 La Playa Street #306 San Francisco, CA 94122	1464 La Playa Street #306 San Francisco, CA 94122
Leland Spiro	1464 La Playa Street #306 San Francisco, CA 94122	869 West Mendocino Avenue Stockton, CA 95204
Heather Spiro	1464 La Playa Street #306 San Francisco, CA 94122	869 West Mendocino Avenue Stockton, CA 95204

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on the date shown below at San Francisco, California.

Signed: _____ *Tan heu* _____

Dated: 1/30/2025



**Residential Rent Stabilization and Arbitration Board
City & County Of San Francisco**

Esta notificación puede afectar a sus derechos como propietario o inquilino. Si necesita ayuda para entender este aviso, por favor llame al 415-252-4600.

本項公告可能會影響您身為房東或房客的權利。
如果您需要協助來了解本項公告，請致電 415-252-4600。

Posibleng maapektuhan ng abisong ito ang inyong mga karapatan bilang nagpapaupa (landlord) o umuupa (tenant). Kung kailangan ninyo ng tulong upang maintindihan ang abisong ito, pakitawagan ang 415-252-4600.

Notice Of Action On Appeal

Appeal Denied

**APPEAL NO. AT250013
ORIGINAL NO(S). L240704**

**1464 La Playa Street, #306
San Francisco, CA 94122**

The Appeal regarding the above property was reviewed for consideration on **3/11/2025**. The Rent Board Commissioners voted to: **deny the appeal**.

The appeal having been denied, the decision rendered by the Administrative Law Judge is FINAL. [Ordinance Section 37.8(e)(8)] However, that portion of the decision which orders payment, refund, adding or offsetting rent is stayed for a period of 30 calendar days from the date of mailing this notice. [Ordinance Section 37.8(f)(8)]

Any party aggrieved by this decision must seek judicial review within 90 calendar days of the date of mailing this notice. [Ordinance Section 37.8(f)(9); Code of Civil Procedure Section 1094.6(f)]



**Residential Rent Stabilization and Arbitration Board
City & County Of San Francisco**

Esta notificación puede afectar a sus derechos como propietario o inquilino. Si necesita ayuda para entender este aviso, por favor llame al 415-252-4600.

本項公告可能會影響您身為房東或房客之權利。
如果您需要協助來了解本項公告，請致電 415-252-4600。

Posibleng maapektuhan ng abisong ito ang inyong mga karapatan bilang nagpapaupa (landlord) o umuupa (tenant). Kung kailangan ninyo ng tulong upang maintindihan ang abisong ito, pakitawagan ang 415-252-4600.

Proof of Service

Proof of Service page 1

**APPEAL NO. AT250013
ORIGINAL NO(S). L240704**

I am over the age of 18, not a party to this case, and am employed at 25 Van Ness Avenue, #320, San Francisco, California, 94102. I served a copy of the attached:

Notice Of Action On Appeal

regarding the property at **1464 La Playa Street, #306** by placing a true copy in a sealed envelope with postage prepaid in the United States mail at San Francisco, California, on the date shown below, and addressed to the parties as shown below.

<u>Name</u>	<u>Property Address</u>	<u>Mailing Address</u>
Landlord		
David Banks		c/o Dowling & Marquez, LLP 625 Market Street #4th Floor San Francisco, CA 94105
Leon Banks		c/o Dowling & Marquez, LLP 625 Market Street #4th Floor San Francisco, CA 94105
John Palmer		c/o Dowling & Marquez, LLP 625 Market Street #4th Floor San Francisco, CA 94105
Landlord Attorney		
Curtis F. Dowling		Dowling & Marquez, LLP 625 Market Street #4th Floor San Francisco, CA 94105
Tenant		
Leland Spiro	1464 La Playa Street #306 San Francisco, CA 94122	1464 La Playa Street #306 San Francisco, CA 94122
Heather Spiro	1464 La Playa Street #306 San Francisco, CA 94122	1464 La Playa Street #306 San Francisco, CA 94122
Leland Spiro	1464 La Playa Street #306 San Francisco, CA 94122	869 West Mendocino Avenue Stockton, CA 95204
Heather Spiro	1464 La Playa Street #306 San Francisco, CA 94122	869 West Mendocino Avenue Stockton, CA 95204
Tenant Attorney		
Ana Denmark	1464 La Playa Street #306 San Francisco, CA 94122	Legal Assistance To The Elderly 1663 Mission Street #225 San Francisco, CA 94103



**Residential Rent Stabilization and Arbitration Board
City & County Of San Francisco**

Proof of Service

Proof of Service page 2

Name _____ Property Address _____ Mailing Address _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on the date shown below at San Francisco, California.

Signed: _____ 

Dated: 3/21/2025