

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**

Cover Sheet for Electronic Filing

I am filing the attached papers at the Office of Administrative Hearings.

1. Check one of the boxes below.

The case number is: 2016 DHCD TP 30,842

This is a new case, and a case number has not yet been assigned.

2. Briefly describe the paper that you are filing:

Motion for Summary Judgement

3. My name, mailing address, telephone number, and e-mail address are:

Name: Gabriel Fineman

Telephone: (202) 290-7460

Mailing Address: 7270 Ashford Place #206
Delray Beach FL 33446-2954

E-mail address: gabe@gfineman.com

Telephone (202) 290-7460

Representing: pro se

Email: gabe@gfineman.com

City, State, Zip: Washington, DC 20008

I agree to receive documents from the court at my email address. **Yes** **No**

4. You should complete this form, save it to your computer, and then attach it to an e-mail, along with the papers you are filing. The e-mail address for filing papers at OAH is oah.filing@dc.gov. Papers sent to any other e-mail address will **not** be accepted for filing.

I sent a copy of the attached papers to all other parties or their representatives as listed below.

Person to Whom the Papers Were Sent:
Debra F, Leege, Greenstein Delorme & Luchs
Address 1620 L Street, NW, Suite 900
City, State, Zip Code Washington, DC 20036
Date the papers were sent: December 9, 2016

Method of sending:

- Mail Commercial Carrier
 Fax (Give Fax number) _____
 Hand delivery
 Email (only if the person has agreed; provide email address _____)

Person to Whom the Papers Were Sent:

Address _____
City, State, Zip Code _____
Date the papers were sent: _____

Method of sending:

- Mail Commercial Carrier
 Fax (Give Fax number) _____
 Hand delivery
 Email (only if the person has agreed; provide email address _____)

If you sent the papers to more than two people, provide the above information for the additional people on a separate sheet.

**DISTRICT OF COLUMBIA
Office of Administrative Hearings**

GABRIEL FINEMAN,

Tenant/Petitioner,

V.

SMITH PROPERTY HOLDINGS VAN NESS L.P.,

Housing Provider/Respondent

Case No.: 2016 DHCD TP 30,842
3003 Van Ness Street, N.W., Apt. W-1131
Administrative Law Judge: Ann C. Yahner

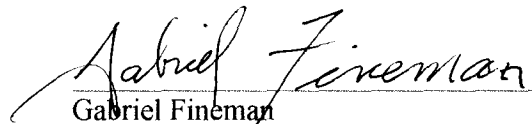
TENANT'S MOTION FOR SUMMARY JUDGMENT

Tenant/Petitioner Gabriel Fineman ("Tenant"), moves for summary judgment of the Tenant Petition to affirm the definition of "rent" as used in Chapter 35 and to require the Housing Provider to correct its incorrect and false filings with the RAD and to make future filings correctly and provide other relief as requested. In support hereof, the Tenant submits the attached Statement of Material Facts Not in Dispute and Memorandum of Points and Authorities.

Respectfully submitted,

Tenant/Petitioner


Dated: December 9, 2016


Gabriel Fineman
7270 Ashford Place #206
Delray Beach FL 33446-2954
Telephone (202) 290-7460
Email: gabe@gfineman.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion and Memorandum of Points and Authorities in support thereof and Statement of Material Facts Not in Dispute, including Exhibits A-F was served on December 9, 2016, by first class mail, postage pre-paid upon the attorney for the housing provider:

Debra F. Leege
Greenstein DeLorme & Luchs, P.C.
1620 L Street N.W., Suite 900
Washington, DC 20036-5605


Gabriel Fineman
7270 Ashford Place #206
Delray Beach FL 33446-2954
Telephone (202) 290-7460
Email: gabe@gfineman.com

DISTRICT OF COLUMBIA
Office of Administrative Hearings

GABRIEL FINEMAN,

Tenant/Petitioner,

V.

SMITH PROPERTY HOLDINGS VAN NESS L.P.,

Housing Provider/Respondent

Case No.: 2016 DHCD TP 30,842
3003 Van Ness Street, N.W., Apt. W-1131
Administrative Law Judge: Ann C. Yahner

STATEMENT OF MATERIAL FACTS NOT IN DISPUTE

1. Smith Property Holdings Van Ness L.P is the owner of the residential rental accommodation located at 3003 Van Ness Street, N.W. in Washington, D.C. (the "Housing Accommodation").
2. Equity Residential Management, L.L.C. manages the Housing Accommodation.
3. On September 18, 2015, Housing Provider sent Tenant a notice that his rent would be increased from \$3,114 to \$3,161 effective December 22, 2015. Exhibit B.
4. On September 22, 2015, Housing Provider filed a Certificate of Notice to RAD of Adjustment in Rent Charged. It identified that effective December 22, 2015, the rent for the Unit increased by \$47 from \$3,114 to \$3,161. Exhibit C.
5. On or about October 7, 2016 Tenant sent Housing Provider a notice to correct the RAD form 8 and that request was never answered. Exhibit D and Exhibit A.
6. Tenant allowed the Housing Provider to debit his bank account monthly and paid the amount demanded by the Housing Provider. Exhibit E and Exhibit A.
7. Rent is a term defined as follows in DC Code section §42-3501.03 (28)

that applies to all of chapter 35, including the filing of RAD forms 8 and 9:

‘Rent’ means the entire amount of money, money’s worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities. [DC Code section §42-3501.03 (28)]

Dated: December 9, 2016

Respectfully submitted,

A handwritten signature in black ink that reads "Gabriel Fineman". The signature is written in a cursive style and is positioned above a horizontal line.

Gabriel Fineman
Tenant/Petitioner
7270 Ashford Place #206
Delray Beach FL 33446-2954
Telephone (202) 290-7460
Email: gabe@gfineman.com

DISTRICT OF COLUMBIA
Office of Administrative Hearings

GABRIEL FINEMAN,

Tenant/Petitioner,

V.

SMITH PROPERTY HOLDINGS VAN NESS L.P.,

Housing Provider/Respondent

Case No.: 2016 DHCD TP 30,842
3003 Van Ness Street, N.W., Apt. W-1131
Administrative Law Judge: Ann C. Yahner

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
TENANT'S MOTION FOR SUMMARY JUDGMENT**

Tenant/Petitioner Gabriel Fineman ("Tenant") submits its memorandum of points and authorities in support of its Motion for Summary Judgment. In support thereof, Tenant states as follows:

I. THE CLAIMS

In the Tenant Petition filed on July 12, 2016, Tenant/Petitioner Gabriel Fineman ("Petitioner") alleged that (i) the Housing Provider neither provided the correct notices of rent increase to the Tenant nor filed the correct rent increase forms with the RAD; and (ii) this was done as a willful act that calls for a penalty to be assessed by the adjudicator.

In the Complaint Details, Petitioner states that:

The Housing Provider provided the Tenant with an incorrect RAD form 8 and filed an incorrect RAD form 9 with the RAD and has failed to correct the filing despite notice. The Housing Provider incorrectly stated the rent charged by almost \$1,000. ... This petition is only to correct the line entitled "Your current rent charged" on the RAD form 8 and the associated filed RAD form 9. It does not deal with the lease, how the rent is calculated, flex-leases, concession leases, rent ceilings or other items normally decided in a civil court.

II. FACTUAL BACKGROUND

A. The Housing Accommodation.

Smith Property Holdings Van Ness L.P is the owner of the residential rental accommodation located at 3003 Van Ness Street, N.W., Washington, D.C. (the "Housing Accommodation"). Equity Residential Management, L.L.C. manages the Housing Accommodation. Petitioner has resided at the Housing Accommodation since December 2013. Petitioner rented Unit W-1131 (the "Unit"). [Exhibit A, Affidavit of Gabriel Fineman.]

B. The RAD Form 8 and RAD form 9.

The Housing Provider is required to provide each tenant with a Notice to Tenants of Adjustment in Rent Charged before it increases rents [42 DCMR 4205.4 (a)] and file that same information with the RAD. [42 DCMR 4205.4 (d)].

On September 18, 2015 Housing Provider sent a RAD form 8 notice to Tenant that the rent for the unit would be increasing from \$3,114 to \$3,161 effective December 22, 2015. A copy of the Rad form 8 is attached as Exhibit B. Thereafter, on or about September 22, 2015, Housing Provider filed a Certificate of Notice of Rent Increase (RAD form 9) with the District of Columbia's Rental Accommodations Division. A copy of the Certificate of Notice of Rent Increase is attached as Exhibit C.

On or about October 7, 2015 the Tenant sent notice to the Housing Provider that the RAD form 8 was incorrect and that it should be corrected. That notice is attached as Exhibit D. No reply was ever received. [Affidavit, Exhibit A.]

C. The statutory definition of "rent".

Rent is a term defined as follows in DC Code section §42-3501.03 (28) that applies to all of chapter 35, including the filing of RAD forms 8 and 9:

‘Rent’ means the entire amount of money, money's worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or

use of a rental unit, its related services, and its related facilities. [DC Code section §42-3501.03 (28)]

III. STANDARD FOR GRANTING SUMMARY JUDGMENT

The District of Columbia Office of Administrative Hearings (“OAH”) Rule 2828.1 provides, “Motions for summary adjudication or comparable relief may be filed in accordance with Rule 2812.” OAH Rule 2812 provides instructions for the filing of motions, generally, but it does not specifically address the standard to determine whether summary judgment is appropriate. Where a procedural rule is not specifically addressed by the OAH Rules, the Office of Administrative Hearings may rely upon the District of Columbia Superior Court Rules of Civil Procedure as persuasive authority. See OAH Rule 2801.2.

District of Columbia Superior Court Rule of Civil Procedure 56 provides that summary judgment is appropriate if there is “no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law.” See also *Musa v. Continental Ins. Co.*, 644 A.2d 999, 100102 (D.C. 1994). Only disputes over facts, viewed in the light most favorable to the non-moving party, which might legitimately affect the outcome of a trial are “material” under Rule 56. See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986) (There is no issue to be decided at trial unless there is sufficient evidence favoring the non-moving party for the finder of fact to return a verdict for that party.); see also *Barnstead Broadcasting Corp. v. Offshore Broadcasting Corp.*, 886 F.Supp. 874, 878 (D.C. Cir. 1995) (Disputed material facts are those that might affect outcome of the suit under governing law.); *Clayton v. Owens-Coming Fiberglass Corp.*, 662 A.2d 1374, 1381 (D.C. 1995).

IV. ANALYSIS

A. There are no material issues of fact.

a. Because this petition deals with a single issue, there are no material facts in dispute. The RAD form 8 is attached as Exhibit B and the RAD form 9 as Exhibit C. The on-

ly issue is if they were properly filled out with the correct current rent charged and that depends only on how the statutory definition of "rent" is interpreted by the Hearing Examiner. These are very simple forms that should be easy to fill out. Form 9 is a summary of form 8 notices to tenants that is a simple form containing only two numbers that are not computed: 'Your current rent charged' and 'the dollar adjustment to your rent charged'. The Housing Provider incorrectly stated the rent charged to the Tenant by almost \$1,000.

B. There is no material issue at law that is not defined in the Statute

a. There is only one section of the law involved and that is the definition of the term "rent" as used in various phrases.

As stated below, the definition of rent is both clear from its definition in the statute and by its general and common meaning.

b. The term "Your current rent charged" is what the Housing Provider tries to collect.

The term "Your current rent charged" is four words. The word 'your' clearly refers to the Tenant who received the notice. 'Current' mean now, or in this case, October 2015. Rent is a term defined as follows in DC Code section §42-3501.03 (28) that applies to all of chapter 35, including the filing of RAD forms 8 and 9.

‘Rent’ means the entire amount of money, money's worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities. [DC Code section §42-3501.03 (28)]

Note that this definition does not depend on how the rent is computed or what rent might have been demanded, but on the actual amount demanded, received or charged by the Housing Provider. It is likewise not dependent on any contract between the Housing Provider and any Tenant or upon any contractual definition of terms. It is an independent definition of how the term "rent" should be construed throughout chapter 35 of Title 42 of the DC Code, including the requirements to issue RAD form 8 and to file RAD form 9.

c. What "Charged" means.

Finally the word "charged" seems redundant since it presumed in the definition of "rent". However, because the amount demanded or received might differ from what is charged, that definition is important. The dictionary definitions are rather clear. It means 'the price demanded for something' (Webster) or 'an amount of money that you have to pay' (McMillan) or 'demand (an amount) as a price from someone for a service rendered or goods supplied' (Oxford). Thus, it is the amount that the Housing Provider hoped or expected to receive each month from the Tenant.

d. The amount of rent charged can also be derived from the actions of the Housing Provider.

In the case of the Tenant, Gabriel Fineman allowed the housing provider to debit his bank account each month and thus the three possible amounts in the definition of rent were always the same. The amount that the Housing Provider demand from the Tenant's bank, receive by ACH transfer and charged to the Tenant's account each month was \$2,329. A copy of a bank statement showing the drafting on the Tenant's account by the Housing Provider is attached as Exhibit E. That is clearly the then current rent for the unit plus related garage space (that had a separate charge of \$160 per month). This means that the actual rent charged, demanded and received for unit W-1131 was \$2,169 (\$2,329 -\$160). However, the amount of current rent charged shown on RAD form 8 was falsely stated as \$3,114.

e. Another way to look at the amount of rent charged.

Another way to look at rent charged is the consider under what conditions the Housing Provider could go into Landlord Tenant Court and request eviction for non-payment of rent. Could it claim that the Tenant was in default because he failed to pay some maximum legal rent, or some ceiling rent or some other rent that was not what was asked for or expected each month? Of course not. Could the Housing Provider claim that the amount of money it was owed

under the lease was some higher amount not demanded or even required by a lease? It would be laughed out of court. So, in fact, when the Housing Provider tried to evict three tenants for non-payment of rent in September of 2016, in all three cases the amount of rent shown in the complaint was the amount the tenant was expected to pay after any concessions (if any) and not some higher amount. A copy of the Second Affidavit of Gabriel Fineman showing these facts is attached as Exhibit F.

V. RELIEF

Accordingly, the Tenant petition should be granted and the Housing Provider should be ordered to: (i) to correct the existing filings; (ii) notify the tenants of such corrections, and (iii) make future notices and filings correctly.

Furthermore, the actions of the Housing Provider in filing these false RAD 8 and RAD 9 forms was unlawful. The Rad 9 form states:

I declare, affirm and ratify under penalty of perjury that the foregoing information is complete and accurate to the best of my knowledge. I fully understand and acknowledge that my signature below shall be deemed as the taking of an oath or affirmation regarding all of the information provided herein, to which the sanctions for perjury, false swearing or false statements under D.C. OFFICIAL CODE §§ 22-2402, 2404 & 2405 (Supp. 2008), respectively, shall apply.

The penalty for perjury is set forth in D.C. Official Code § 22-2402 (b) is that:

Any person convicted of perjury shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both.

The fine in section 22-3571.01 is up to \$25,000 for an individual and twice that (i.e. \$50,000) for an organization.

The RAD form 8, is also false and violates § 42- 3509.01 that says:

(b) Any person who wilfully (1) collects a rent increase after it has been disapproved under this chapter, until and unless the disapproval has been reversed by a court of competent jurisdiction, (2) makes a false statement in any document filed under this chapter, (3) commits any other act in violation of any provision of this chapter or of any final administrative order issued under this chapter, or (4) fails to meet obligations required under this chapter shall be subject to a civil fine of not more than \$5,000 for each violation.

These violations were willful because (a) they were not corrected upon notice from the Tenant; and (b) because they were part of a pattern of always listing the ceiling rent instead of the rent charged as required by the RAD. They were the basis of subsequent rent increases that exceeded the maximum allowed and thus violated the provisions of Chapter 35 and they failed to meet the obligations of proper filings also required by chapter 35.

Therefore, the Housing Provider should be fined appropriately under the provisions of D.C. Official Code §§ 22-2402 and 42- 3509.01.

Such other relief should be provided as the adjudicator thinks appropriate.

VI. CONCLUSION

For the foregoing reasons, Tenant's Motion for Summary Judgment should be granted and the tenant petition should be granted with the relief stated above.

Respectfully submitted,

Tenant/Petitioner

Dated: December 12, 2016

Gabriel Fineman
7270 Ashford Place #206
Delray Beach FL 33446-2954
Telephone (202) 290-7460
Email: gabe@gfineman.com

EXHIBIT A

DISTRICT OF COLUMBIA
Office of Administrative Hearings

| | | |
|--|---|---|
| GABRIEL FINEMAN, | : | |
| | : | |
| Tenant/Petitioner, | : | |
| | : | |
| V. | : | Case No.: 2016 DHCD TP 30,842 |
| | : | 3003 Van Ness Street, N.W., Apt. W-1131 |
| | : | Administrative Law Judge: Ann C. Yahner |
| | : | |
| SMITH PROPERTY HOLDINGS VAN NESS L.P., | : | |
| | : | |
| Housing Provider/Respondent | : | |
| | : | |

AFFIDAVIT OF GABRIEL FINEMAN

I, Gabriel Fineman, declare under penalty of perjury as follows:

1. I am over twenty one (21) years of age and make this Affidavit on personal knowledge and in support of the Tenant/Petitioner's ("Tenant") Motion for Summary Judgment.
2. Smith Property Holdings Van Ness L.P. is the owner of the residential rental accommodation located at 3003 Van Ness Street, N.W. in Washington, D.C. (the "Housing Accommodation").
3. Equity Residential Management, L.L.C. manages the Housing Accommodation.
4. Petitioner Gabriel Fineman is the current resident of apartment W-1131 at the Housing Accommodation (the "Unit").
5. On September 18, 2015, Housing Provider sent Tenant a notice that his rent would be increased from \$3,114 to \$3,161 effective December 22, 2015. A true and accurate copy of the Notice (RAD form 8) is attached as Exhibit B.
6. On September 22, 2015, Housing Provider filed a Certificate of Notice to RAD of Adjustment in Rent Charged. It identified that effective December

22, 2015, the rent for the Unit would be increased by \$47 from \$3,114 to \$3,161. A true and accurate copy of the Certificate (RAD form 9) is attached as Exhibit C.

7. On or about October 7, 2015 the Tenant sent notice to the Housing Provider that the RAD form 8 was incorrect and that it should be corrected. A true and accurate copy of that notice is attached as Exhibit D. No reply was ever received.

8. Each month from December 2014 until December 2015, including September 2015 when the RAD form 8 was issued and the RAD form 9 was filed, the Housing Provider debited the Tenant's bank account at Pentagon Federal Credit Union. The amount that the Housing Provider demand from the Tenant's bank, receive by ACH transfer and charged to the Tenant's account each month was \$2,329. A true and accurate copy of a bank statement showing the drafting on the Tenant's account by the Housing Provider is attached as Exhibit E.

I hereby declare under penalty of perjury that the foregoing statements are true and correct.

Dated: August 22, 2016

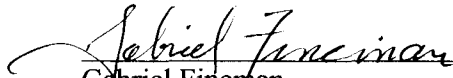


Gabriel Fineman
Tenant/Petitioner

EXHIBIT B

Smith Property Holdings Van Ness L.P.
3003 Van Ness Street NW
Washington, DC 20008

District of Columbia Department of Housing and Community Development
Housing Regulation Administration - Rental Accommodations Division (RAD)
1800 Martin Luther King Jr. Avenue SE, 2nd Floor
Washington, DC 20020
(202) 442-8606

I certify that this is a true and correct copy of
the RAD form 8 that I received.

Gabriel Fineman

**HOUSING PROVIDER'S NOTICE TO TENANTS
OF ADJUSTMENT IN RENT CHARGED**

Gabriel Fineman
3003 Van Ness Street, N.W. Apt # W1131
Washington, DC 20008

Date: 09/18/2015

**IF YOU ARE ELDERLY OR DISABLED, CONTACT YOUR HOUSING PROVIDER TO COMPLETE
A "NOTICE OF ELDERLY OR DISABLED STATUS" FORM, AND GIVE A COPY TO YOUR
HOUSING PROVIDER. THIS FORM IS ALSO AVAILABLE FROM THE RENTAL
ACCOMMODATIONS DIVISION.**

Dear Tenant(s):

In accordance with the provisions of the Rental Housing Act of 1985, as amended (Act), the rent charged for your rental unit will be adjusted as set forth below:

| | |
|--|-------------------|
| Your current rent charged is: | <u>\$ 3,114</u> |
| The dollar adjustment in your rent charged is: | <u>\$ 47</u> |
| The percentage adjustment in your rent charged | <u>1.50</u> % |
| Your new rent charged is: | <u>\$ 3,161</u> |
| The effective date is: | <u>12/22/2015</u> |

The basis of the adjustment in rent charged is as follows [check one]:

Under section 206(b) and 208(h) of the Act (D.C. OFFICIAL CODE §§ 42-3502.06(b) & 42-3502.08(h)(2) (Supp. 2008), the increase in rent charged is based on the increase in the Consumer Price Index (CPI-W). For tenants qualified under the Act as elderly or disabled, the maximum increase in rent charged is the lesser of the CPI-W percentage, or 5% of the current allowable rent charged. For other tenants, the maximum percentage increase in rent charged is the CPI-W percentage plus 2%, but the total increase shall not be more than 10% of the current allowable rent charged. The Rental Housing Commission (RHC) determines the annual adjustment of general applicability in the rent charged established by Section 206(b) for each Rental Unit, which shall be equal to the change during the previous calendar year in the Washington, D.C. Standard Metropolitan Statistical Area (SMSA) Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The CPI-W percentage published by the Rental Housing Commission for May 2015 through April 2016 is 1.5%.

Alternatively, a housing provider may seek an allowable rent adjustment under other provisions of the Act, including petitions based on capital improvements, changes in services and/or facilities, hardship, substantial rehabilitation or voluntary agreement with 70% of the tenants.

Page 1 of 2

RACD Form 8 (Rev 02/12)

EXHIBIT C

I certify that this is a true and correct copy of the RAD form 9 received from RAD
Gabriel Fineman



District of Columbia Department of Housing and Community Development
Housing Regulation Administration -- Rental Accommodations Division (RAD)
1800 Martin Luther King Jr. Avenue SE, 2nd Floor
Washington, DC 20020
(202) 442-9505

RAD Data Stamp

Internet Use Only
CAO current: yes no n/a
BBL current: yes no
Reg. current: yes no

**CERTIFICATE OF NOTICE TO RAD
OF ADJUSTMENTS IN RENT CHARGED**

**HOUSING PROVIDER(S) SHALL FILE THIS CERTIFICATE WITH THE RENTAL
ACCOMMODATIONS DIVISION. THIS FORM IS NOT SERVED ON TENANTS.**

I, Smith Property Holdings Van Ness L.P., declare, affirm and ratify as follows:
(Housing Provider's Name)

1. I am the Housing Provider of the following Housing Accommodation or Rental Unit(s)
(address): 3003 Van Ness, 3003 Van Ness Street, N.W.
Washington, D.C. 20008

2. My business address is (No P.O. Box): Robert Grealy
1500 Massachusetts Ave NW, Suite 25, Washington, DC 20005

3. My business telephone number and email address are:
202-971-7065, rgrealy@eqr.com

4. The Certificate of Occupancy number for the Housing Accommodation is B175541

5. My Basic Business License number is 54002038 and expires on (date): 10/31/2015

6. My RAD Registration Number for the Housing Accommodation is: 54002038

7. Attached hereto are the following documents related to the adjustment(s) in the rent charged for the Housing Accommodation and the Rental Unit(s): (1) a sample "Housing Provider's Notice to Tenants of Adjustment in Rent Charged" (except for Vacancy Increases); and (2) a completed "Appendix of Notices of Adjustments in Rent(s) Charged."

8. The "Housing Provider's Notice to Tenants of Adjustment in Rent Charged" was served on each of the Tenant(s) listed in the "Appendix of Notices of Adjustments in Rent(s) Charged" prior to the filing of this "Certificate of Notice to RAD of Adjustments in Rent Charged."

9. The Rental Unit(s) and common elements of the Housing Accommodation are in substantial compliance with the Housing Code as required by 14 DCMR § 4216.2 (2004), or any noncompliance is the result of Tenant neglect or misconduct.

I declare, affirm and ratify under penalty of perjury that the foregoing information is complete and accurate to the best of my knowledge. I fully understand and acknowledge that my signature below shall be deemed as the taking of an oath or affirmation regarding all of the information provided herein, to which the sanctions for perjury, false swearing or false statements under D.C. OFFICIAL CODE §§ 22-2402, 2404 & 2405 (Supp. 2008), respectively, shall apply.

Smith Property Holdings Van Ness L.P.
Housing Provider's Printed Name

Housing Provider's Signature

09/18/2015
Date:

<http://10.1.21.225:9080/navigator/convertDocument.do>

5/24/2016

RECEIVED
2015 SEP 23 AM 9:28
ACCOMMODATIONS
DIVISION
GENERAL
SERIAL

Smith Property Holdings Van Ness L.P.
3003 Van Ness Street NW
Washington, DC 20008

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Accommodations Division (RAD)
1800 Martin Luther King Jr. Avenue SE, 2nd Floor
Washington, DC 20020
(202) 442-6686

**HOUSING PROVIDER'S NOTICE TO TENANTS
OF ADJUSTMENT IN RENT CHARGED**

Yan Li, Li Yangyang
3003 Van Ness Street, N.W. Apt # S0203
Washington, DC 20008

Date: 09/18/2015

**IF YOU ARE ELDERLY OR DISABLED, CONTACT YOUR HOUSING PROVIDER TO COMPLETE
A "NOTICE OF ELDERLY OR DISABLED STATUS" FORM, AND GIVE A COPY TO YOUR
HOUSING PROVIDER. THIS FORM IS ALSO AVAILABLE FROM THE RENTAL
ACCOMMODATIONS DIVISION.**

Dear Tenants(s):

In accordance with the provisions of the Rental Housing Act of 1985, as amended (Act), the rent charged for your rental unit will be adjusted as set forth below:

| | |
|--|-------------------|
| Your current rent charged is: | <u>\$ 2,720</u> |
| The dollar adjustment in your rent charged is: | <u>\$ 95</u> |
| The percentage adjustment in your rent charged | <u>3.50 %</u> |
| Your new rent charged is: | <u>\$ 2,815</u> |
| The effective date is: | <u>12/08/2015</u> |

The basis of the adjustment in rent charged is as follows [check one]:

Under section 206(b) and 208(h) of the Act (D.C. OFFICIAL CODE §§ 42-3502.06(b) & 42-3502.08(h)(2) (Supp. 2008), the increase in rent charged is based on the increase in the Consumer Price Index (CPI-W). For tenants qualified under the Act as elderly or disabled, the maximum increase in rent charged is the lesser of the CPI-W percentage, or 5% of the current allowable rent charged. For other tenants, the maximum percentage increase in rent charged is the CPI-W percentage plus 2%, but the total increase shall not be more than 10% of the current allowable rent charged. The Rental Housing Commission (RHC) determines the annual adjustment of general applicability in the rent charged established by Section 206(b) for each Rental Unit, which shall be equal to the change during the previous calendar year in the Washington, D.C. Standard Metropolitan Statistical Area (SMSA) Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The CPI-W percentage published by the Rental Housing Commission for May 2015 through April 2016 is 1.5%.

Alternatively, a housing provider may seek an allowable rent adjustment under other provisions of the Act, including petitions based on capital improvements, changes in services and/or facilities, hardship, substantial rehabilitation or voluntary agreement with 70% of the tenants.

<http://10.1.21.225:9080/navigator/convertDocument.do>

5/24/2016

The adjustment in rent charged is based on the following provision of the Act:

| Section of Act | Type of Increase | Increase Authorized |
|---------------------------------|---|---------------------|
| Effective date of Authorization | Case number and Date of Decision, if applicable | |

| Section of Act | Description |
|----------------|--|
| 208(h)(2) | Annual Increase of General Applicability (CPI-W based) |
| 210 | Capital Improvement |
| 211 | Change in Services/Facilities |
| 212 | Hardship Petition |
| 213(a)(1) | Vacancy (10% Increase) |
| 213(a)(2)* | Highest Comparable Vacancy (Up to 30% Increase) |
| 214 | Substantial Rehabilitation |
| 215 | Voluntary Agreement |

The Housing Provider certifies that (1) at least one (1) year has passed since the last rent adjustment (except for any vacancy increases); (2) the Rental Unit and the common elements of the Housing Accommodation are in substantial compliance with the Housing Code of the District of Columbia at the time that the adjustment is implemented, or that any non-compliance is the result of Tenant neglect or misconduct; and (3) the rent adjustment is in compliance with all other provisions of the Act.

You have the right to request that the Rental Accommodations Division (RAD) review this notice. You may contact RAD at 202-442-9505. Walk-in assistance is available Monday through Friday from 8:30 am to 3:30 pm in the Housing Resource Center located at 1800 Martin Luther King Jr. Avenue SE, Washington, DC 20020. A more detailed summary of Tenant rights and sources of technical assistance are available in the RAD pamphlet entitled "What You Should Know about Rent Control in the District of Columbia," which is available from the Housing Provider, the RAD office, and online at www.dhcd.dc.gov.

Certificate of Occupancy Number (if applicable):
B175541

Basic Business License Number: 54002038

RAD Registration Number: 54002038

Housing Provider's Business Address
(No P.O. Box):

Smith Property Holdings Van Ness L.P.
3003 Van Ness Street NW
Washington, DC 20008

Equity Residential

Housing Provider's Name (print)

Owner Authorized Agent

Other Title (if applicable):



Housing Provider's Signature

202-244-3100, aduval@ecr.com

Housing Provider's Telephone Number and E-mail address:

<http://10.1.21.225:9080/navigator/convertDocument.do>

5/24/2016

APPENDIX OF NOTICES OF ADJUSTMENT IN RENT CHARGED**(with Continuation Page)**

| Unit No. | Tenant(s) Name(s) | Prior Rent | New Rent | Dollar (\$) Change | Percent (%) Change | Section of Act | Date Tenant Served with Notice |
|----------|--|------------|----------|-----------------------|-----------------------|----------------|--------------------------------|
| S0203 | Yan Li, Li Yangyang | 2720 | 2815 | 95 | 3.5 | 208(h)(2) | 09/18/20 |
| S0324 | Tanya Weinberg, Shlomo Yahara | 1784 | 1846 | 62 | 3.5 | 208(h)(2) | 09/18/20 |
| S0418 | Dmitry Zontov | 2140 | 2215 | 75 | 3.5 | 208(h)(2) | 09/18/20 |
| S0502 | Ligong Li, Yu Qinghan | 2585 | 2675 | 90 | 3.5 | 208(h)(2) | 09/18/20 |
| S0708 | Jose Sembler, Paz Cisternas | 2713 | 2808 | 95 | 3.5 | 208(h)(2) | 09/18/20 |
| S0821 | Sam Lee | 1674 | 1733 | 59 | 3.5 | 208(h)(2) | 09/18/20 |
| S0908 | Judith Levine | 3043 | 3150 | 107 | 3.5 | 208(h)(2) | 09/18/20 |
| S0909 | Ferdous Al Faruque, Samantha Al Faruque | 1748 | 1809 | 61 | 3.5 | 208(h)(2) | 09/18/20 |
| S0912 | Chinese Embassy | 3073 | 3183 | 108 | 3.5 | 208(h)(2) | 09/18/20 |
| S0922 | Chinese Embassy | 2476 | 2563 | 87 | 3.5 | 208(h)(2) | 09/18/20 |
| S1103 | Jordan Kaplan | 2851 | 2931 | 100 | 3.5 | 208(h)(2) | 09/18/20 |
| S1104 | Embassy of the Peoples Republic Of China | 2832 | 2931 | 99 | 3.5 | 208(h)(2) | 09/18/20 |
| W0106 | Stephen Hill | 2329 | 2411 | 82 | 3.5 | 208(h)(2) | 09/18/20 |
| W0132 | Jaimie Reid, Pernell Fowler | 1987 | 2057 | 70 | 3.5 | 208(h)(2) | 09/18/20 |
| W0326 | Andrew Morrison | 1887 | 1953 | 66 | 3.5 | 208(h)(2) | 09/18/20 |
| W0401 | Embassy of the Peoples Republic of China | 4515 | 4673 | 158 | 3.5 | 208(h)(2) | 09/18/20 |
| W0404 | Benjamin Serinsky, Samantha Haxard | 2642 | 2734 | 92 | 3.5 | 208(h)(2) | 09/18/20 |
| W0406 | Jeff Schmidt | 1987 | 2017 | 30 | 1.5 | 208(h)(2) | 09/18/20 |
| W0426 | Michael Ferrari, Amanda Shipley | 3218 | 3331 | 113 | 3.5 | 208(h)(2) | 09/18/20 |
| W0505 | Diane Leeson, Kelsey McCutcheon | 2139 | 2214 | 75 | 3.5 | 208(h)(2) | 09/18/20 |
| W0507 | Jessica Crippin | 2211 | 2288 | 77 | 3.5 | 208(h)(2) | 09/18/20 |
| W0620 | Aisling Swaine | 3113 | 3222 | 109 | 3.5 | 208(h)(2) | 09/18/20 |
| W0715 | Patricia Remick | 2742 | 2783 | 41 | 1.5 | 208(h)(2) | 09/18/20 |

Page 2 of 3

RAD Form 9 (Rev 02/12)

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APPENDIX OF NOTICES OF ADJUSTMENT IN RENT CHARGED

(with Continuation Page)

| Unit No. | Tenant(s) Name(s) | Prior Rent | New Rent | Dollar (\$) Change | Percent (%) Change | Section of Act | Date Tenant Served with Notice |
|----------|------------------------------------|------------|----------|--------------------|--------------------|----------------|--------------------------------|
| W0809 | Xiaofang Yu | 3423 | 3543 | 120 | 3.5 | 208(h)(2) | 09/18/201 |
| W0902 | Doranne Sharpe | 2950 | 3053 | 103 | 3.5 | 208(h)(2) | 09/18/201 |
| W1102 | Sasha Tschob, Patrick Masisi | 3075 | 3183 | 108 | 3.5 | 208(h)(2) | 09/18/201 |
| W1126 | Alberto Tumietti, Emilia Cristallo | 2925 | 3027 | 102 | 3.5 | 208(h)(2) | 09/18/201 |
| W1129 | Michael Weber, Michaels Denk | 2806 | 2904 | 98 | 3.5 | 208(h)(2) | 09/18/201 |
| W1131 | Gabriel Fineman | 3114 | 3161 | 47 | 1.5 | 208(h)(2) | 09/18/201 |

| Section of Act | Description |
|----------------|---|
| 208(h)(2) | Annual Increase of General Applicability (CPI-W based) |
| 210 | Capital Improvement |
| 211 | Change in Services/Facilities |
| 212 | Hardship Petition |
| 213(a)(1) | Vacancy (10%) |
| 213(a)(2) | IF APPLICABLE -- State in the Appendix the Substantially Identical Rental Unit used for the Highest Comparable Vacancy Increase (30% max) |
| 214 | Substantial Rehabilitation |
| 215 | Voluntary Agreement |

| Type of Service | No. | |
|-----------------|-----|------------------------------|
| TENANT | 1 | Personal serv |
| ADULT | 2 | Personal serv with instructi |
| AGENT | 3 | Personal serv of the Tenant |
| MAIL | 4 | First class ma |
| CERTIFIED | 5 | Certified mai |
| PRIORITY | 6 | Priority mail |

¹ Housing Provider's Notice to Tenu

<http://10.1.21.225:9080/navigator/getConvertedDocumentResource.do?docUrl=00aa4c323568646d6c6e59...> 5/24/2016

APPENDIX OF NOTICES OF ADJUSTMENT IN RENT CHARGED

(with Continuation Page)

| Unit No. | Tenant(s) Name(s) | Prior Rent | New Rent | Dollar Change (\$) | Percent Change (%) | Section of Act | Date Tenant Served with Notice | Effective Date of Rent Adjustment | 213(e)(2) Rental Unit No.* | Type of Service (No. is below) |
|----------|--|------------|----------|--------------------|--------------------|----------------|--------------------------------|-----------------------------------|----------------------------|--------------------------------|
| S0203 | Yoo Ja, J.J. Yangyoung | 2720 | 2815 | 95 | 3.5208(0)(2) | | 09/18/2015 | 12/08/2015 | | 4 |
| S0334 | Tanya Weinberg, Shiono Yahira | 1784 | 1846 | 62 | 3.5208(0)(2) | | 09/18/2015 | 12/08/2015 | | 4 |
| S0418 | Dmitry Zonlov | 2140 | 2215 | 75 | 3.5208(0)(2) | | 09/18/2015 | 12/01/2015 | | 4 |
| S0592 | Ligong Li, Yu Qingshan | 2585 | 2675 | 90 | 3.5208(0)(2) | | 09/18/2015 | 12/08/2015 | | 4 |
| S0708 | José Sembler, Paz Cisternas | 2715 | 2808 | 93 | 3.5208(0)(2) | | 09/18/2015 | 12/30/2015 | | 4 |
| S0821 | Sam Lee | 1674 | 1733 | 59 | 3.5208(0)(2) | | 09/18/2015 | 12/01/2015 | | 4 |
| S0908 | Judith Levine | 3043 | 3150 | 107 | 3.5208(0)(2) | | 09/18/2015 | 12/05/2015 | | 4 |
| S0909 | Ferdous Al Faruque, Samantha Al Faruque | 1748 | 1809 | 61 | 3.5208(0)(2) | | 09/18/2015 | 12/20/2015 | | 4 |
| S0912 | Chinese Embassy | 3076 | 3183 | 108 | 3.5208(0)(2) | | 09/18/2015 | 12/20/2015 | | 4 |
| S0922 | Chinese Embassy | 2476 | 2563 | 87 | 3.5208(0)(2) | | 09/18/2015 | 12/21/2015 | | 4 |
| S1103 | Jordan Kaplan | 2851 | 2951 | 100 | 3.5208(0)(2) | | 09/18/2015 | 12/26/2015 | | 4 |
| S1104 | Embassy of the Peoples Republic Of China | 2832 | 2931 | 99 | 3.5208(0)(2) | | 09/18/2015 | 12/31/2015 | | 4 |
| W0106 | Stephen Hill | 2329 | 2411 | 82 | 3.5208(0)(2) | | 09/18/2015 | 12/31/2015 | | 4 |
| W0132 | Jaunie Reid, Penell Fowler | 1987 | 2057 | 70 | 3.5208(0)(2) | | 09/18/2015 | 12/06/2015 | | 4 |
| W0326 | Andrew Morrison | 1887 | 1953 | 66 | 3.5208(0)(2) | | 09/18/2015 | 12/01/2015 | | 4 |
| W0401 | Embassy of the Peoples Republic of China | 4515 | 4679 | 158 | 3.5208(0)(2) | | 09/18/2015 | 12/15/2015 | | 4 |
| W0404 | Benjamin Semnsky, Samantha Hasard | 2642 | 2734 | 92 | 3.5208(0)(2) | | 09/18/2015 | 12/01/2015 | | 4 |
| W0406 | Jeff Schmidt | 1987 | 2017 | 30 | 1.5208(0)(2) | | 09/18/2015 | 12/01/2015 | | 4 |
| W0426 | Michael Ferrari, Amanda Shipley | 3218 | 3331 | 113 | 3.5208(0)(2) | | 09/18/2015 | 12/14/2015 | | 4 |
| W0505 | Diane Lesson, Kelsey McCutcheon | 2139 | 2214 | 75 | 3.5208(0)(2) | | 09/18/2015 | 12/01/2015 | | 4 |
| W0517 | Jessica Crippin | 2211 | 2288 | 77 | 3.5208(0)(2) | | 09/18/2015 | 12/27/2015 | | 4 |
| W0620 | Aisling Swaine | 3113 | 3222 | 109 | 3.5208(0)(2) | | 09/18/2015 | 12/15/2015 | | 4 |

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APPENDIX OF NOTICES OF ADJUSTMENT IN RENT CHARGED
(with Continuation Page)

| Unit No. | Tenant(s) Name(s) | Prior Rent | New Rent | Dollar Change (\$) | Percent Change (%) | Section of Act | Date Tenant Served with Notice ¹ | Effective Date of Rent Adjustment | 213(a)(2) Rental Unit No.* | Type of Service (No. is below) |
|----------|-----------------------------------|------------|----------|--------------------|--------------------|----------------|---|-----------------------------------|----------------------------|--------------------------------|
| W0809 | Xiaofang Yu | 3425 | 3543 | 120 | 3.5200(0)(2) | | 09/18/2015 | 12/19/2015 | | 4 |
| W0902 | Donna Sharpe | 2950 | 3053 | 103 | 3.5200(0)(2) | | 09/18/2015 | 12/13/2015 | | 4 |
| W1102 | Sasha Trebet, Patrick Maris | 3075 | 3183 | 108 | 3.5200(0)(2) | | 09/18/2015 | 12/20/2015 | | 4 |
| W1126 | Alberto Tomiasi, Emilia Cristallo | 2925 | 3027 | 102 | 3.5200(0)(2) | | 09/18/2015 | 12/05/2015 | | 4 |
| W1129 | Michael Weber, Michaela Denk | 2806 | 2906 | 98 | 3.5200(0)(2) | | 09/18/2015 | 12/01/2015 | | 4 |
| W1131 | Gabriel Fineman | 3114 | 3161 | 47 | 1.5200(0)(2) | | 09/18/2015 | 12/22/2015 | | 4 |

I certify that this is a true and correct copy of the RAD form 9 received from RAD
Gabriel Fineman

| Type of Service | No. | Description |
|-----------------|-----|--|
| TENANT | 1 | Personal service on Tenant |
| ADULT | 2 | Personal service on an adult at the Rental Unit, with instructions to deliver same to the Tenant(s) of the Tenant(s) |
| AGENT | 3 | Personal service on an authorized representative of the Tenant(s) |
| MAIL | 4 | First class mail |
| CERTIFIED | 5 | Certified mail |
| PRIORITY | 6 | Priority mail with delivery confirmation |

| Section of Act | Description |
|----------------|---|
| 208(b)(2) | Annual Increase of General Applicability (CPI-W based) |
| 210 | Capital Improvement |
| 211 | Change in Services/Facilities |
| 212 | Hardship Petition |
| 213(a)(1) | Vacancy (10%) |
| 213(a)(2) | IF APPLICABLE -- State in the Appendix the Substantially Identical Rental Unit used for the Highest Comparable Vacancy Increase (30% max) |
| 214 | Substantial Rehabilitation |
| 215 | Voluntary Agreement |

¹ Housing Provider's Notice to Tenant of Adjustment in Rent Charged

EXHIBIT D

Gabriel Fineman
3003 Van Ness St. Apt W-1131
Washington, DC 20008
gabe@gfineman.com

Smith Property Holdings Van Ness L.P.
Avis Duvall, Agent
3003 Van Ness Street, NW
Washington, DC 20008

RE: Notice to Tenants of Adjustment in Rent Charged unit W-1131

Dear Sirs:

I am in receipt of your Notice to Tenants of Adjustment in Rent Charged dated 09/08/2015 relating to my unit number West 1131 in 3003 Van Ness Apartments. It is incorrect.


DC Code section §42-3501.03 (28) clearly defines 'rent' as:

"Rent" means the entire amount of money, money's worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities.

Note that this definition is independent of any methods of calculation to derive the amount of the rent. The amount that you currently demand from my bank, receive by ACH transfer and is charged to my account each month is \$2,329. That is clearly my current rent for my unit and related garage space. However, your notice states that my current rent is \$3,114.

Please correct your records and send me a corrected notice.

Sincerely,


Gabriel Fineman

Cc: DC Office of the Tenant Advocate
VNSTA – Harry Gural

Smith Property Holdings Van Ness L.P.
3003 Van Ness Street NW
Washington, DC 20008

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Accommodations Division (RAD)
1800 Martin Luther King Jr. Avenue SE, 2nd Floor
Washington, DC 20020
(202) 442-8595

**HOUSING PROVIDER'S NOTICE TO TENANTS
OF ADJUSTMENT IN RENT CHARGED**

Gabriel Fineman
3003 Van Ness Street, N.W. Apt # W1131
Washington, DC 20008

Date: 09/18/2015

**IF YOU ARE ELDERLY OR DISABLED, CONTACT YOUR HOUSING PROVIDER TO COMPLETE
A "NOTICE OF ELDERLY OR DISABLED STATUS" FORM, AND GIVE A COPY TO YOUR
HOUSING PROVIDER. THIS FORM IS ALSO AVAILABLE FROM THE RENTAL
ACCOMMODATIONS DIVISION.**

Dear Tenant(s):

In accordance with the provisions of the Rental Housing Act of 1985, as amended (Act), the rent charged for your rental unit will be adjusted as set forth below:

| | |
|--|-------------------|
| Your current rent charged is: | <u>\$ 3,114</u> |
| The dollar adjustment in your rent charged is: | <u>\$ 47</u> |
| The percentage adjustment in your rent charged | <u>1.50</u> % |
| Your new rent charged is: | <u>\$ 3,161</u> |
| The effective date is: | <u>12/22/2015</u> |

The basis of the adjustment in rent charged is as follows [check one]:

Under section 206(b) and 208(h) of the Act (D.C. OFFICIAL CODE §§ 42-3502.06(b) & 42-3502.08(h)(2) (Supp. 2008), the increase in rent charged is based on the increase in the Consumer Price Index (CPI-W). For tenants qualified under the Act as elderly or disabled, the maximum increase in rent charged is the lesser of the CPI-W percentage, or 5% of the current allowable rent charged. For other tenants, the maximum percentage increase in rent charged is the CPI-W percentage plus 2%, but the total increase shall not be more than 10% of the current allowable rent charged. The Rental Housing Commission (RHC) determines the annual adjustment of general applicability in the rent charged established by Section 206(b) for each Rental Unit, which shall be equal to the change during the previous calendar year in the Washington, D.C. Standard Metropolitan Statistical Area (SMSA) Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The CPI-W percentage published by the Rental Housing Commission for May 2015 through April 2016 is 1.5%.

Alternatively, a housing provider may seek an allowable rent adjustment under other provisions of the Act, including petitions based on capital improvements, changes in services and/or facilities, hardship, substantial rehabilitation or voluntary agreement with 70% of the tenants.

Page 1 of 2

RACD Form 8 (Rev 02/12)

EXHIBIT E



Box 1452, Alexandria, VA 22315-2022 • 800.247.5626 • PenFed.org

CONSOLIDATED STATEMENT

For the Period: **09/18/15** thru **10/18/15**

Member Name: **GABRIEL FINEMAN**

Member Number: **3139961**

GABRIEL FINEMAN
 3003 VAN NESS STREET
 APT W1131
 WASHINGTON, DC 20008-

Summary of Accounts

Deposit Accounts

| Account | Account Number | Ending Balance Last Statement | Ending Balance This Statement |
|------------------------|----------------|-------------------------------|-------------------------------|
| Regular Share Account | 3139961-01-9 | \$1,061.18 | \$1,061.22 |
| Regular Share Account | 4619206-01-6 | \$20.13 | \$20.13 |
| Access America Account | 4471176-02-6 | \$20,427.17 | \$18,963.70 |

Overview of Accounts

| Year to Date Dividend on non-IRA Accounts | Year to Date Certificate Penalty | Year to Date Finance Charges | IRA Contribution 2014 | IRA Contribution 2015 |
|---|----------------------------------|------------------------------|-----------------------|-----------------------|
| \$507.58 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |

Regular Share Account

Summary for Account Number: 3139961-01-9

| Balance Last Statement (09/18/15) | Total Debits This Period | Total Credits This Period | Ending Balance (10/18/15) |
|-----------------------------------|--------------------------|---------------------------|---------------------------|
| \$1,061.18 | \$0.00 | \$0.04 | \$1,061.22 |

| |
|--------------------------------|
| Annual Percentage Yield Earned |
| .05% based on 30 days |

Account Activity

| Date | Description | Activity | Other Charges | Balance |
|----------|------------------|----------|---------------|------------|
| 09/18/15 | Previous Balance | | | \$1,061.18 |
| 10/17/15 | Dividend | 0.04 | | 1,061.22 |
| 10/18/15 | Ending Balance | | | \$1,061.22 |

| |
|--|
| Annual Percentage Yield (APY): 0.05% September and October |
|--|

EXHIBIT F

DISTRICT OF COLUMBIA
Office of Administrative Hearings

GABRIEL FINEMAN,

Tenant/Petitioner,

V.

SMITH PROPERTY HOLDINGS VAN NESS L.P.,

Housing Provider/Respondent

Case No.: 2016 DHCD TP 30,842
3003 Van Ness Street, N.W., Apt. W-1131
Administrative Law Judge: Ann C. Yahner

SECOND AFFIDAVIT OF GABRIEL FINEMAN

I, Gabriel Fineman, declare under penalty of perjury as follows:

1. I am over twenty one (21) years of age and make this Affidavit on personal knowledge and in support of the Tenant/Petitioner's ("Tenant") Motion for Summary Judgment.
2. Smith Property Holdings Van Ness L.P. is the owner of the residential rental accommodation located at 3003 Van Ness Street, N.W. in Washington, D.C. (the "Housing Accommodation").
3. Equity Residential Management, L.L.C. manages the Housing Accommodation.
4. Petitioner Gabriel Fineman is the current resident of apartment W-1131 at the Housing Accommodation (the "Unit").
5. On 9/27/2016, I accessed, using the Internet, the Court Cases Online system of the District of Columbia Courts at <https://www.dccourts.gov/cco/maincase.jsf> and searched for all

open cases where Equity Residential Management was the plaintiff and the case type was Landlord & Tenant Branch. Thirty six cases were returned. A true and accurate copy of this list is attached as Exhibit LT1.

6. On the same day I went to the Clerk's Office of the Landlord and Tenant's court and used the terminal there to look at each of the thirty six cases.

7. Most of these thirty six cases were brought against tenants of other buildings evidently also managed by Equity Residential Management LLC. Only three were against residents of 3003 Van Ness Apartments.

8. I was able to photograph the image of the complaint in each case as it appeared on the terminal.

9. The first case was case number 2016 LTB 203613 filed 9/20/2016 (Case #1") against Brenda Small ("Tenant # 1") in unit W-129. A true and accurate copy of the photo of the complaint in this case is attached as Exhibit LT2.

10. Case #1 alleged that the rent on unit W-129 was \$2,110.00 for the month of September 2016.

11. I went and talked with Tenant #1 who told me that the amount of \$2,110 was the rent she was expected to pay each month and, as a long time tenant, she did not have a concession lease.

12. The second case was case number 2016 LTB 203612 filed 9/20/2016 (Case #2") against Shaya Tavaf ("Tenant # 2") in unit S-806. A true and accurate copy of the photo of the complaint in this case is attached as Exhibit LT3.

13. Case #2 alleged that the rent on unit S-806 was \$1,755.00 for the month of September

ber 2016.

14. I went and talked with Tenant #2 who told me that the amount of \$1,755 was the rent she was expected to pay each month after concessions and not the ceiling rent mentioned in the lease.

15. The third case was case number 2016 LTB 203611 filed 9/20/2016 (Case #3") against Caroline Cox ("Tenant # 3") in unit S-613. A true and accurate copy of the photo of the complaint in this case is attached as Exhibit LT4.

16. Case #3 alleged that the rent on unit S-613 was \$1,675.00 for the month of September 2016.

17. I went and talked with Tenant #3 who told me that the amount of \$1,675 was the rent she was expected to pay each month after concessions and not the ceiling rent mentioned in the lease.

18. In each of the three cases, the housing provider swore under penalty of perjury that the unit was "exempt from rent control".

19. In each of the three cases each unit, like all units at 3003 Van Ness Apartments, is subject to the Rent Stabilization Act, commonly also called rent control.

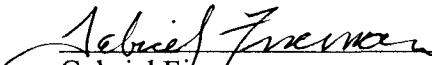
20. In Case #1, Case #2 and Case #3 (the "Cases") the Housing Provider used the term "rent" as it is defined in DC Code section §42-3501.03 (28) where it says:

'Rent' means the entire amount of money, money's worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities. [DC Code section §42-3501.03 (28)]

21. In each of the Cases, the Housing Provider did not use the term 'rent' to mean the ceiling or other sum used to compute the actual rent.

I hereby declare under penalty of perjury that the foregoing statements are true and correct.

Dated: October 10, 2016



Gabriel Fineman
Tenant/Petitioner

EXHIBIT LT1
List of open L/T cases with Equity as Plaintiff
Sept 27, 2016

Note: The entire result set may be sorted by clicking on the labels for each column.

| Select | Case Number | Case Type | Party | Party Type | Status | File Date |
|-------------------------------------|-----------------|--------------------------|---|------------|--------|------------|
| <input checked="" type="checkbox"/> | 2016 LTB 024039 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/23/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 024036 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input type="checkbox"/> | 2016 LTB 024035 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input type="checkbox"/> | 2016 LTB 024034 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input type="checkbox"/> | 2016 LTB 024033 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input type="checkbox"/> | 2016 LTB 024032 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 024030 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/23/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023636 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023635 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023634 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023613 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023612 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |

Note: The entire result set may be sorted by clicking on the labels for each column.

| Select | Case Number | Case Type | Party | Party Type | Status | File Date |
|-------------------------------------|-----------------|--------------------------|---|------------|--------|------------|
| <input checked="" type="checkbox"/> | 2016 LTB 024039 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/23/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 024036 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input type="checkbox"/> | 2016 LTB 024035 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input type="checkbox"/> | 2016 LTB 024034 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input type="checkbox"/> | 2016 LTB 024033 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input type="checkbox"/> | 2016 LTB 024032 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC 425 MASS APARTM | Plaintiff | Open | 09/23/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 024030 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/23/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023636 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023635 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023634 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023613 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 023612 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 09/20/2016 |

Note: The entire result set may be sorted by clicking on the labels for each column.

| Select | Case Number | Case Type | Party | Party Type | Status | File Date |
|-------------------------------------|-----------------|--------------------------|------------------------------------|------------|--------|------------|
| <input checked="" type="checkbox"/> | 2016 LTB 022114 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 08/31/2016 |
| <input checked="" type="checkbox"/> | 2016 LTB 022110 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 08/31/2016 |
| <input type="checkbox"/> | 2016 LTB 021244 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 08/24/2016 |
| <input type="checkbox"/> | 2016 LTB 021242 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 08/24/2016 |
| <input type="checkbox"/> | 2016 LTB 021238 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 08/24/2016 |
| <input type="checkbox"/> | 2016 LTB 020970 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 08/23/2016 |
| <input type="checkbox"/> | 2016 LTB 020950 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 08/23/2016 |
| <input type="checkbox"/> | 2016 LTB 019433 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 08/04/2016 |
| <input type="checkbox"/> | 2016 LTB 017436 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 07/15/2016 |
| <input type="checkbox"/> | 2016 LTB 014976 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 06/17/2016 |
| <input type="checkbox"/> | 2016 LTB 012262 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 05/18/2016 |
| <input type="checkbox"/> | 2016 LTB 010863 | Landlord & Tenant Branch | EQUITY RESIDENTIAL MANAGEMENT, LLC | Plaintiff | Open | 04/27/2016 |

Clear Case Details

EXHIBIT LT2
L/T Complaint filed against Brenda Small (W 129)

| | |
|---|---|
| 2 65% 1001 MANAGEMENT, LLC, AS AGENT R OF 3003 VAN NESS STREET, NW 3003 VAN NESS STREET, NW, APT. NO. W129 DC 20004 Zip Code | Case No. <u>LTB</u> BRENDA SMALL vs. Defendant(s) 3003 VAN NESS STREET, NW, APT. NO. W129 Address Washington, D.C. WASHINGTON, DC 20004 Zip Code UNKNOWN Phone Number (if known) |
|---|---|

VERIFIED COMPLAINT FOR POSSESSION OF REAL PROPERTY – FORM 1A
(Management of Rent – Residential Property)

OF COLUMBIA, ss: WILTON D. NEDA, MPELLIOS, RIDER, & GOLEY LLP
 4200 PARLIAMENT PLACE, SUITE 100, LANHAM, MD, 20706
 address, and phone #: 301-459-4300

I, Plaintiff, or
 or Plaintiff's attorney, or Plaintiff's agent authorized to make this verification and my relationship to Plaintiff is (specify, and
 is a corporation, include your title)

I, am the Landlord or Owner, or I have been appointed Personal Representative of the Estate in case no. _____
 authorized to take possession of the property, or I am not the Landlord, Owner, or Personal Representative, but have
 the right to demand possession because (explain): _____

I seek possession of property located at 3003 VAN NESS STREET, NW, APT. NO. W129, Washington, D.C.
 Defendant, a tenant who holds it without right. Plaintiff seeks possession of property because:
 Defendant failed to pay: \$ 2,110.00 total rent due from 09/01/2016 to 09/30/2016. The monthly rent is \$ 2,110.00
 lease permits late fees of \$ 10.00 per month. Plaintiff seeks other fees of \$ 210.00 for PARKING, KEY
 (rent), defined as rent under paragraph no. 2B of the lease (bring lease to every court date) for this property,
 which is not subsidized and is exempt from rent control. The total amount due to Plaintiff is \$ 2,330.00
 since the date to quit has been: served as required by law, or I have personally reviewed the lease and Defendant has
 expressly waived the right to be served with a notice to quit in paragraph no. 16 on page number 3 of the
 lease, or Defendant has expressly waived that right in another document (attach copy).

Is the property of which Plaintiff seeks possession subsidized by the federal or local government? yes no
 If the property is subsidized, answer all of the following:
 What amount of rent, if any, is due from the tenant per month? \$ _____
 What amount of rent, if any, is due from the subsidy program per month? \$ _____
 Has the rent amount alleged due for any month listed in the complaint over and above the tenant's portion of the rent for
 that month? yes no
 Has the subsidy program failed to pay its portion of the rent for any of the months at issue in this case? yes no

Plaintiff asks the Court for: (check all that apply)
 Judgment for possession of the property described and costs taxed by the Clerk.
 Judgment for rent, fees defined as rent, and late fees in the total amount of \$ _____
 Judgment for costs requiring that all future rent be paid into the Court Registry until the case is decided.

Plaintiff: WILTON D. NEDA 09/15/2016
 Attorney At Law
 Title of Person Signing: _____

EXHIBIT LT3
L/T Complaint filed against Shaya Tavaf (S 806)

2016 LTB 023612

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CIVIL DIVISION
LANDLORD AND TENANT BRANCH**
610 4th STREET, N.W., Building 8, Room 4110, Washington, D.C. 20001 Telephone (202) 879-8878

**EQUITY RESIDENTIAL MANAGEMENT, LLC, AS AGENT
FOR THE OWNER OF 3003 VAN NESS**

Case No. LTB _____
SHAYA TAVAF

vs.

Defendant(s)
3003 VAN NESS STREET, NW, APT. NO. 506
Address
Washington, D.C. WASHINGTON, DC 20008
Zip Code

Plaintiff(s)
3003 VAN NESS STREET, NW
Address (file post office boxes)
WASHINGTON, DC 20008
City State Zip Code
202-344-7811 Phone Number

UNKNOWN
Phone Number (if known)

VERIFIED COMPLAINT FOR POSSESSION OF REAL PROPERTY – FORM 1A
(Nonpayment of Rent – Residential Property)
WILTON O. REDD, MALLIOS, RIDER, & GOLEY LLP
4200 PARLIAMENT PLACE, SUITE 100, LANHAM, MD, 20706

DISTRICT OF COLUMBIA, ss: _____

1. I, (name, address, and phone #) _____, swear or affirm, under penalties of perjury, that I have knowledge of the facts set forth in this Complaint and that I am: Plaintiff, or Plaintiff's attorney, or Plaintiff's agent authorized to make this verification and my relationship to Plaintiff is (explain, and if Plaintiff is a corporation, include your title) _____.

2. Plaintiff is the Landlord or Owner, or has been appointed Personal Representative of the Estate in case no _____ and is authorized to take possession of the property; or is not the Landlord, Owner, or Personal Representative, but has the right to demand possession because (explain) _____.

3. Plaintiff seeks possession of property located at 3003 VAN NESS STREET, NW, APT. NO. 506, Washington, D.C. Property is in possession of Defendant, a tenant who holds it without right. Plaintiff seeks possession of property because: Defendant failed to pay: \$ 1,755.00 total rent due from 09/01/2016 to 09/30/2016. The monthly rent is \$ 1,755.00. The lease permits late fees of \$ 263.25 per month. Plaintiff seeks other fees of \$ _____ for (explain, defined as rent under paragraph no. 4 of the lease (bring lease to every court date) for this property, which is not subsidized and is exempt from rent control. The total amount due to Plaintiff is \$ 2,018.25. Notice to quit has been: served as required by law, or I have personally reviewed the lease and Defendant has expressly waived the right to be served with a notice to quit in paragraph no. 27 on page number 5 of the lease, or Defendant has expressly waived that right in another document (attach copy) _____.

4. Rent for the property of which Plaintiff seeks possession is subsidized by the federal or local government? yes no. If the rent is subsidized, answer all of the following:
What amount of rent, if any, is due from the tenant per month? \$ _____
What amount of rent, if any, is due from the subsidy program per month? \$ _____
Is the rent amount alleged due for any month listed in the complaint over and above the tenant's portion of the rent for that month? yes no
Has the subsidy program failed to pay its portion of the rent for any of the months at issue in this case? yes no

Therefore, Plaintiff asks the Court for: (check all that apply)
 Judgment for possession of the property described and costs taxed by the Clerk.
 Judgment for rent, fees defined as rent, and late fees in the total amount of \$ _____.
 A protective order requiring that all future rent be paid into the Court Registry until the case is decided.

Filed _____ at _____ on _____ 2016. (day of Sep 20 2016)
WILTON O. REDD

EXHIBIT LT4
L/T Complaint filed against Caroline Cox (S 806)

2016 LTB 023611

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CIVIL DIVISION
LANDLORD AND TENANT BRANCH
510 4th STREET, N.W., Building E, Room 1110, Washington, D.C. 20004 Telephone (202) 878-4879

EQUITY RESIDENTIAL MANAGEMENT, LLC, AS AGENT
FOR THE OWNER OF 3003 VAN NESS

Case No. LTB _____
CAROLINE COX

VS

Plaintiff(s)
3003 VAN NESS STREET, NW
Address (No post office boxes)
WASHINGTON, DC 20008
City State Zip Code
202-244-7811 Phone Number

Defendant(s)
3003 VAN NESS STREET, NW, APT. NO. 5613
Address
Washington, D.C. WASHINGTON, DC 20008
City State Zip Code
UNKNOWN Phone Number (if known)

VERIFIED COMPLAINT FOR POSSESSION OF REAL PROPERTY -- FORM 1A
(Nonpayment of Rent - Residential Property)
WILLIAM G. NEEDS, MALLORY, RIDER, & GOLEY LLP
4200 PARLIAMENT PLACE, SUITE 100, LANHAM, MD, 20706

DISTRICT OF COLUMBIA, ss: _____

1. I, (name, address, and phone #) _____, 301-459-4200, swear or affirm, under penalties of perjury, that I have knowledge of the facts set forth in this Complaint and that I am: Plaintiff, or Plaintiff's attorney, or Plaintiff's agent authorized to make this verification and my relationship to Plaintiff is (explain, and if Plaintiff is a corporation, include your title) _____

2. Plaintiff is the Landlord or Owner, or has been appointed Personal Representative of the Estate in case no. _____ and is authorized to take possession of the property, or is not the Landlord, Owner, or Personal Representative, but has the right to demand possession because (explain) _____

3. Plaintiff seeks possession of property located at 3003 VAN NESS STREET, NW, APT. NO. 5613, Washington, D.C. Property is in possession of Defendant, a tenant who holds it without right. Plaintiff seeks possession of property because: Defendant failed to pay \$ 1,675.00 total rent due from 09/01/2016 to 09/30/2016. The monthly rent is \$ 1,675.00. The lease permits late fees of \$ 25.25 per month. Plaintiff seeks other fees of \$ _____ for _____ (explain). defined as rent under paragraph no. 4 of the lease (bring lease to every court date) for this property, which is not subsidized and is exempt from rent control. The total amount due to Plaintiff is \$ 1,959.50. Notice to quit has been: served as required by law, or I have personally reviewed the lease and Defendant has expressly waived the right to be served with a notice to quit in paragraph no. 26 on page number 5 of the lease, or Defendant has expressly waived that right in another document (attach copy).

4. Rent for the property of which Plaintiff seeks possession is subsidized by the federal or local government? yes no. If the rent is subsidized, answer all of the following:
What amount of rent, if any, is due from the tenant per month? \$ _____
What amount of rent, if any, is due from the subsidy program per month? \$ _____
Is the rent amount alleged due for any month listed in the complaint over and above the tenant's portion of the rent for that month? yes no
Has the subsidy program failed to pay its portion of the rent for any of the months at issue in this case? yes no

Therefore, Plaintiff asks the Court for: (check all that apply)
 Judgment for possession of the property described and costs taxed by the Clerk.
 Money judgment for rent, fees defined as rent, and late fees in the total amount of \$ _____.
 Protective order requiring that all future rent be paid into the Court Registry and the case is decided.

Plaintiff's attorney: _____
Date: _____