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CITY OF OAKLAND  
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**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

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Owens  <p style="text-align: center;">Plaintiff/Petitioner(s)</p> <p style="text-align: center;">VS.</p> City of Oakland's Department of Housing and Commun  <p style="text-align: center;">Defendant/Respondent(s) (Abbreviated Title)</p>	No. <u>RG18914638</u>  Order  Date: 04/19/2019 Time: 02:00 PM Dept: 17 Judge: Frank Roesch
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The Petition for Writ of Mandate filed for Jonathan Owens was set for hearing on 04/19/2019 at 02:00 PM in Department 17 before the Honorable Frank Roesch. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

**IT IS HEREBY ORDERED THAT:**

Petitioner Jonathan Owens seeks a writ of administrative mandate ordering the City of Oakland's Housing and Residential Rent and Relocation Board to vacate its decision on appeal that his home is not exempt from Oakland's Rent Adjustment Program ("RAP"). At issue is the question of law whether Owen's four-bedroom single-family detached home is exempt from the rent control ordinance under the Costa-Hawkins Act because it is "alienable separate from the title to any other dwelling unit" (Civ. Code §§ 1954.52(a)(3)(A)) and that he may rent those bedrooms to individual tenants without complying with the RAP.

The meaning of a "dwelling unit" under building and planning codes is not in pari materia with the meaning under rent control ordinances. For purposes of landlord-tenant law, "a dwelling or a unit" or a "dwelling unit" is not the entire property to which an owner holds title; rather, it is any area understood to be committed to the habitation of a given tenant or tenants to the exclusion of others. (See, e.g., Civ. Code § 1940(a) [defining "dwelling unit" as "a structure or part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household" for purposes of a landlord-tenant statute]; see also, e.g., Oakland Mun. Code § 8.22.020 [defining "Covered Unit" as including "all [non-exempt] housing services located in Oakland and used or occupied in consideration of payment of rent"].)

The relevant dwelling unit in question is not Owens's home but rather each of the rooms he rented to tenants. Those units are not exempt from rent control as a condominium or single family home. (Civ. Code § 1954.52(a)(3)(A).)

Owens' petition is DENIED.

**EVIDENTIARY MATTERS**

Petitioner's requests for judicial notice filed January 7, 2019 Exhibits 1 through 6 are GRANTED as

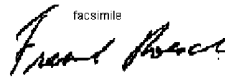
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legislative acts of public entities. (Evid. Code § 452(b).) The requests for Exhibits 7, 8, and 9 are DENIED because the requested documents are not relevant to the grounds for decision on this motion. (Ragland v. U.S. Bank Nat. Assn. (2012) 209 Cal.App.4th 182, 194.)

The City's requests for judicial notice filed February 27, 2019 are DENIED because the requested documents are not relevant to the grounds for decision on this motion. (Ibid.)

Petitioner's requests for judicial notice filed March 25, 2019 are DENIED because the requested documents are not relevant to the grounds for decision on this motion. (Ibid.)

Dated: 05/02/2019

facsimile  


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Judge Frank Roesch

SHORT TITLE:

Owens VS City of Oakland's Department of Housing and Commun

CASE NUMBER:

RG18914638

ADDITIONAL ADDRESSEES

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