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9 GREENBERG PROPERTY INVESTMENTS LP

ADMINISTRATIVE HEARING – CITY OF SANTA ROSA

10 IN RE 2371 CORBY AVENUE, UNIT 15

**OWNER GREENBERG PROPERTY
INVESTMENTS LP'S BRIEF FOR
HEARING**

File No.: CE26-0133
Date: July 15, 2026
Time: 4:30 p.m.
Dept.: City Council Chamber
100 Santa Rosa Avenue
Santa Rosa, CA 95404

I. INTRODUCTION

17 Greenberg Property Investments LP (“Greenberg”), the owner and landlord of the subject
18 apartments, submits this Brief to assist the Hearing Officer in the determination of whether the
19 February 6, 2026 Notice and Order / Notice to Vacate’s statement that the tenants at 2371 Corby
20 Avenue, Unit 15, Santa Rosa, California 95407 are entitled to relocation benefits is legally or
21 factually supported. As explained herein and as will be more fully developed at the hearing, the
22 conditions for which Greenberg was cited were caused and contributed to by the tenants and
23 unauthorized occupants in the unit themselves; therefore, Greenberg should not have to pay
24 relocation benefits. Greenberg’s property manager and maintenance technicians are at the
25 apartment complex on a regular basis, and the occupants of the premises never alerted them to any
26 issues with the premises (most likely, because the current occupants are not named on the rental
27 agreement and therefore are unauthorized occupants in the first place). Greenberg has regularly-

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1 scheduled pest treatments performed at the apartment complex by Rats to Roaches, and the
2 tenants and unauthorized occupants in Unit 15 did not avail themselves of these treatments.

3 Although a secondary issue, it should be noted that these individuals refused to move out
4 of the premises for *twelve weeks* after service of the Notice to Vacate, despite *five offers* from Jeff
5 Greenberg of available alternative housing and his coming out-of-pocket thousands of dollars to
6 reserve an Airbnb in February that the tenants initially approved and then rejected.¹ Once they
7 finally moved out temporarily to another available apartment unit on the property, the repairs and
8 remediation were commenced and completed promptly. Code Enforcement closed the case on
9 June 29, 2026. Greenberg submits that the assessment of relocation benefits against it would
10 result in an unconstitutional infringement of its due process rights and in a violation of the legal
11 principles applicable to this matter.

12 II. GENERAL PRINCIPLES

13 A. Mr. Greenberg and Greenberg Property Investments LP Are Entitled to Due 14 Process

15 According to the California Constitution, “A person may not be deprived of life, liberty, or
16 property without due process of law or denied equal protection of the laws; ...” (Cal. Const., Art.
17 I § 7(a)). “The due process clauses, federal and state, are the most basic substantive checks on
18 government’s power to act unfairly or oppressively. ... Courts have consistently assumed that
19 ‘oppressive’ or ‘unreasonable’ statutory penalties may be invalidated as violative of due process.”
20 (*Hale v. Morgan* (1978) 22 Cal.3d 388, 398-399 (citations omitted) (holding that a
21 constitutionally excessive amount of penalties assessed against landlord were unfair and
22 unsustainable)). Simply put, the government cannot impose a punishment – *i.e.*, an assessment of
23 “relocation benefits” – unless it adheres to the principles of due process. Applying these
24 principles to this case, Greenberg cannot be fined if the alleged violations of the Santa Rosa City
25 Code either (a) were not its fault because the tenants had caused or substantially contributed to the
26 problem, or (b) occurred without its knowledge and an opportunity to cure. Due process is
27 violated if the City did not conduct an investigation of: (i) who did what (whether landlord, tenant

28 ¹ Jeff Greenberg is the President of Greenberg Property Investments LP’s general partner.

1 or other), and (ii) who knew what and when, before unilaterally punishing the landlord.

2 **B. California Landlord-Tenant Jurisprudence Allows for the Allocation of**
3 **Responsibility for Habitability Conditions Between the Landlord and the**
4 **Tenant**

5 Consistent with legal principles of fairness and due process, landlord-tenant law in
6 California recognizes that not every habitability issue is automatically deemed to be 100% the
7 landlord's fault. In other words, the allocation of responsibility for the existence of a habitability
8 issue is not a matter of strict liability. Instead, the law recognizes that, "a breach of the warranty
9 of habitability cannot be based on defects and damage caused by the *tenant's* wrongful act or
10 omission (Civ. Code §§ 1929, 1941.2). This is a basic principle of contract law; *i.e.*, no one may
11 benefit from his or her own wrong. [Citations]." (Friedman, et al., Cal. Prac. Guide: Landlord-
12 Tenant (The Rutter Group 2025), § 3:59, p. 3-20 (emphasis is original)). This leading landlord-
13 tenant law treatise explains further:

14 **Statutory tenant obligations:** As noted earlier, tenants are obligated
15 to personal repair damage and deterioration caused by their own acts
16 or neglect. (CC § 1929). In addition, CC § 1941.2 makes clear the
17 landlord has *no duty* to repair a condition (under CC §§ 1941 or 1942)
18 if the tenant is in "substantial violation" of any of the following
19 "affirmative" tenant obligations ... provided the tenant's violation
20 "substantially contributes" to the existence of the defective condition
21 or "substantially interferes" with the landlord's obligation to make the
22 unit "tenantable":

- 23 • Keeping the unit clean and sanitary;
- 24 • Disposing of rubbish, garbage and other waste in a clean and
25 sanitary manner;
- 26 • Properly using and operating all electrical, gas and plumbing
27 fixtures and keeping them as clean and sanitary as their
28 condition permits;
- Not permitting any person, with the tenant's permission, to
willfully or wantonly destroy, deface, damage impair or
remove any part of the structure or unit or the facilities,
equipment or appurtenances, nor personally doing any such
thing;
- Occupying the unit as a residence and utilizing portions
thereof for living, sleeping, cooking or dining purposes only
to the extent they were designed or intended to be used for
such purposes. [CC § 1942.2(a)(1)-(5)]

(Friedman, et al., Cal. Prac. Guide: Landlord-Tenant (The Rutter Group 2025), § 3:60, p.

1 3-20 (emphasis in original)).

2 Greenberg purchased the subject apartment complex in 2020 and performed major
3 renovations over the course of approximately twelve months, including installation of a new roof
4 (that does not leak), installation of new Hardie Plank siding with a house wrap that creates a
5 moisture barrier and prevents leaks, and installation of new double-paned windows that were
6 property flashed to prevent leaks. (It should be noted that when the testing, repair, and
7 remediation were performed recently, there were zero signs of water intrusion at any of the mold
8 growth areas where drywall was removed; thus indicating that these were *internal* issues – solely
9 within the tenants’ control -- and not something resulting from an *exterior* water intrusion).

10 Consistent with the principles set forth above as stated in the Civil Code and The Rutter
11 Group treatise, the operative Residential Lease Agreement dated June 14, 2021 between Jeff
12 Greenberg (“as the authorized agent for the Owner of the Premises”) and Mirian Llesenia Sanchez
13 Portillo and Edith Yessenia Arevalo Sanchez (“Residents”)² includes a Paragraph 18, which is
14 entitled “Duty to Clean and Ventilate” and which states: “Resident(s) hereby acknowledges that
15 mold and mildew can grow in the Premises if the Premises is not properly maintained and
16 ventilated. Resident(s) acknowledges that it is important that Resident(s) regularly allow air to
17 circulate in the Premises. Resident(s) agrees to regularly allow air to circulate in the Premises by
18 using bathroom fan(s), using ceiling fans, where available, and regularly opening the windows
19 and/or sliding doors where available. Since it is common for mold and mildew to grow if even a
20 small amount of moisture builds up, Resident(s) also agree to clean all toilets, sinks, counter-tops,
21 showers, bathtubs and tile or linoleum floors with a household cleaner on at least a bi-weekly basis.
22 Resident(s) further agrees to notify Landlord immediately whenever Resident(s) learns of any
23 condition which could lead to a build-up of moisture in Resident(s) apartment, including but not
24 limited to plumbing leaks, broken window or door seals, accumulation of rainwater or other

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26 ² Greenberg has discovered through this Code Enforcement process that there are numerous
27 individuals who are not named as “Residents” in the operative rental agreement currently
28 occupying Unit 15. This is a breach of Paragraph 8 of the rental agreement, which states
that only Mirian Llesenia Sanchez Portillo, Edith Yessenia Arevalo Sanchez, and Edwin
Aquiles Arevalo Sanchez are allowed to live in the premises. This is a breach of Paragraph
9 of the rental agreement, which prohibits assignment and subletting of the premises.

1 moisture around windows or doors, broken water lines or sprinklers, inoperable fans, doors or
2 windows and/or any failure or malfunction in the heating, ventilation or air-conditioning system in
3 the Premises. If Resident(s) notices mold, mildew or other organic growth in the Premises,
4 Resident(s) agrees to notify Landlord, in writing, immediately. Any failure to comply with the
5 requirements of this paragraph shall be deemed a material breach of this Lease. In addition,
6 Resident(s) shall be liable to Landlord for any damage resulting from Resident(s) failure to comply
7 with the requirements of this paragraph.”

8 Paragraph 21(c) of the Rental Agreement expressly states the tenants’ obligations when it
9 comes to preventing pests and vermin: “Resident(s) agrees to maintain the Premises in a manner
10 that prevents the occurrence of an infestation of insects and vermin, including bedbugs, and comply
11 with Rules and other policies relating to the prevention of infestations. Resident(s) further agrees to
12 report any signs of bedbugs, ants, fleas, roaches, or other insects or vermin immediately to
13 Landlord.”

14 Moreover, the landlord cannot be held liable for problems of he or she was not aware. The
15 California Supreme Court held over thirty years ago that a landlord’s actual or constructive notice
16 of the alleged uninhabitable condition is an essential prerequisite to an actionable breach of
17 warranty claim. (*See Peterson v. Superior Court* (1995) 10 Cal.4th 1185, 1205, 1206). This
18 means, for example, that the tenant needs to notify the landlord that the roof is leaking, or else the
19 landlord cannot be deemed to have breached the warranty of habitability. The evidence will show
20 that these tenants and occupants did not notify Greenberg or any manager or maintenance
21 technician about the issues included in the Notice and Order / Notice to Vacate. They never
22 notified Greenberg that the furnace was not working, or that there were pests, or that there was
23 mold in the unit. (If they had, Greenberg would have promptly addressed and repaired the issue).

24 This concept of equitable allocation is also applicable to Notices to Vacate issued by a
25 municipality under California Health and Safety Code section 17975 et seq. If the tenant is to be
26 provided with “relocation benefits” pursuant to these Health and Safety Code sections, the statute
27 recognizes that the tenant cannot cause the problem and then reap a windfall: “No relocation
28 benefits pursuant to this article shall be payable to any tenant who has caused or substantially

1 contributed to the condition giving rise to the order to vacate, as determined by the local
2 enforcement agency, nor shall any relocation benefits be payable to a tenant if any guest or invitee
3 of the tenant has caused or substantially contributed to the condition giving rise to the order to
4 vacate, as determined by the local enforcement agency. **The local enforcement agency shall**
5 **make the determination whether a tenant, tenant’s guest, or invitee caused or substantially**
6 **contributed to the condition giving rise to the order to vacate at the same time that the order**
7 **to vacate the tenant is made.**” [Emphasis added] (Cal. Health & Safety Code § 17975.4).

8 As these above-referenced statutes and opinions demonstrate, the law clearly requires a
9 determination of whether the tenant caused or contributed to the problem before the landlord can
10 be held responsible and punished. A blanket statement in the Notice of Violation / Notice to
11 Vacate at Page 7 that “Code Enforcement staff has determined based on visual observations that
12 the responsible party has failed to maintain the structure adequately and that the tenant is eligible”
13 falls short of the City’s duty to conduct an investigation of the causes and contributing factors to
14 the issues. A visual observation will not tell the whole story. In fact, the City’s own Notice states
15 on Page 1, Issue No. 1, last sentence, that “Occupants of a dwelling unit, rooming unit or
16 housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of
17 the dwelling unit, rooming unit or premises they occupy and control.” That sentence, highlighted
18 in bold in the Notice, demonstrates that the occupants here are responsible for the issues they now
19 complain of. Similarly, the Notice states on Page 3, Issue 11: “Dampness of habitable rooms –
20 high moisture readings in all bedrooms and the living room.” Again, this speaks to an internal
21 issue caused and contributed to by the occupants of the apartment and not at all by Greenberg.

22 **III. APPLICATION OF PRINCIPLES OF DUE PROCESS TO THIS CASE**

23 In this case, the City is attempting to impose an undeserved penalty on the landlord, when
24 the City failed to provide him adequate due process.

25 **A. The City Made No Effort to Determine Causation of the Code Violations**

26 Code Enforcement issued the Notice and Order / Notice to Vacate on February 6, 2026. At
27 no time prior to issuance of the Notice did anyone from the City make any effort whatsoever to
28 determine the causation of the violations cited in the Notices. No one from the City asked Mr.

1 Greenberg or anyone else associated with the owner what they knew when. No one from the City
2 asked Mr. Greenberg or anyone working on behalf of Greenberg about whether their actions or
3 omissions contributed to the alleged violations. For instance, no one from the City asked Robert J
4 Minton or Dan Hofbauer from Bay Cities Mold Inspection Services, a certified indoor air quality
5 company on the City of Santa Rosa’s list of approved ACAC (“American Council for Accredited
6 Certification”), individuals who are qualified to perform mold and microbial investigation,
7 assessment, remediation, mitigation/abatement and consulting services, about their opinion as to the
8 causation or contributing factors to the presence of the microbial growth at the apartment. If they
9 had, they would have been informed that the indoor humidity in the unit was exceptionally high at
10 the time of the Bay Cities Inspection on February 25, 2026. As Bay Cities instructed, “It is
11 important to keep humidity levels below 55% in your apartment to help minimize moisture buildup
12 and mold growth. The humidity levels in the apartment ranged from 82.0% to 87.0% at the time of
13 the inspection.” Moreover, no one from the City asked Mr. Greenberg about whether he already
14 had regularly-scheduled pest control treatments at this apartment complex (the answer is “Yes”), or
15 whether the occupants at Unit 15 allowed the treatments to occur in that apartment (the answer is
16 “No”). Moreover, the tenants had placed their bed mattresses directly on the floor against the wall,
17 instead of on a frame away from the wall, thereby preventing airflow. They had placed their
18 couches, dressers, and boxes of personal items up against the wall; again, preventing airflow. They
19 had affixed heavy curtains over the windows, which trapped air and caused condensation on the
20 windows. They allowed dust to accumulate, which is a precursor to moldy conditions if not
21 removed on a regular basis. They failed to ventilate while cooking, which resulted in the
22 accumulation of grease on the walls and ceilings, and inside and outside of the cabinets.
23 Apparently, even though only three individuals are authorized and approved to live in this
24 apartment, now approximately eight people are living there, causing and contributing to the issues
25 for which the City cited Greenberg.

26 No one from the City took any steps to determine *at the time the City issued the notice of*
27 *violation* – see Health & Safety Code section 17975.4 for this temporal requirement -- whether the
28 tenants’ actions or omissions contributed to the alleged violations. Unfortunately, the City did not

1 comply with the constitutional requirement that it make a fair effort to determine causation – taking
2 into account, for instance, the respective legal duties of landlord and tenant -- before assessing
3 relocation benefits.

4 In the absence of a determination of who caused or substantially contributed to each
5 condition, it is a violation of Mr. Greenberg’s due process rights to penalize him for the existence of
6 that condition.

7 **B. The Tenants Refused to Move Out of the Premises So That Repairs Could Be**
8 **Performed**

9 As will be further testified to at the hearing, upon learning of the issuance of the Notice and
10 Order / Notice to Vacate, Mr. Greenberg sprang into action – even though he was out of the country
11 at the time. He immediately began making telephone calls and sending e-mails to arrange for
12 alternative housing. The occupants refused to vacate, despite repeated requests and despite Mr.
13 Greenberg spending literally thousands of dollars to reserve alternative housing.

14 The tenants’ intransigence got so bad that Mr. Greenberg had to serve a Notice to Perform
15 Covenants or Quit on April 22, 2026, in an effort to secure their compliance and cooperation with
16 moving out of Unit 15 into Unit 18, another apartment in the same complex. A copy of that Notice
17 to Perform or Quit is attached to this Brief and provides greater details into the history of the
18 tenants’ lack of cooperation.

19 Finally, the tenants in Unit 15 moved out into Unit 18, where they have been living since
20 approximately May 4, 2026 without paying rent.

21 **C. The Repairs Have Been Completed and the Case Is Closed**

22 Mr. Greenberg used his best efforts to complete the repairs, once the tenants stopped
23 dragging their heels and relocated to Unit 18. On Monday, June 29, 2026, Code Enforcement
24 Officer Cassidy Anderson closed the case. The tenants’ and unauthorized occupants’ failure to
25 maintain their apartment in a clean and sanitary manner, as required by California statute and their
26 Rental Agreement, has cost Greenberg approximately \$50,000.00.

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IV. CONCLUSION

Greenberg and its counsel thank the hearing officer for consideration of the legal arguments and facts proffered on its behalf.

Dated: July 1, 2026

ZYROMSKI KONICEK LLP

By Michelle V. Zyromski

MICHELLE V. ZYROMSKI
Attorney for
GREENBERG PROPERTY
INVESTMENTS LP

- Attachments: (A) Residential Lease Agreement dated June 14, 2021
- (B) Rats to Roaches Pest Control Reports
- (C) Bay Cities Mold Inspection Services Mold Inspection Report – 3/6/26
- (D) Bay Cities Mold Inspection Services Mold Inspection Report – 6/25/26
- (E) April 22, 2026 Three-Day Notice to Perform Covenants or Quit