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Renee Shizue Ramos  
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**Superior Court of California, County of Alameda  
Hayward Hall of Justice**

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Breckenridge Property Fund 2016, LLC Plaintiff/Petitioner(s)  vs.  Ramos Defendant/Respondent(s) (Abbreviated Title)	No. <u>RG19038318</u>  Order  Motion for Claim of Right to Possession Granted
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The Motion for Claim of Right to Possession filed for Oliver F. Juang was set for hearing on 09/27/2021 at 09:30 AM in Department 511 before the Honorable Victoria S. Kolakowski. The Tentative Ruling was published and was contested.

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

**IT IS HEREBY ORDERED THAT:**

The post-judgment claim of right to possession of Oliver F. Juang came on for hearing on September 27, 2021, at 9:30 a.m., in Department 511, Hon. Victoria Kolakowski presiding.

Plaintiff Breckenridge Property Fund 2016, LLC, appeared through attorney Pamela Jackson. Claimant Juang appeared through attorney James Imperiale. Having considered the papers on file and the evidence before the court, and having heard the argument of counsel and the testimony of claimant Juang, and good cause appearing, **IT IS HEREBY ORDERED** that the claim is granted.

This is a post-foreclosure unlawful detainer action for possession of 2703 Mathews Street, Berkeley, following service and expiration of a three-day notice to quit served on October 4, 2019, on former owners and defendants Renee Shizue Ramos ("Ramos") and Avelino Ramos, after plaintiff acquired title to the subject property at a foreclosure sale.

On January 15, 2020, the court entered the default of defendant Avelino Ramos. On October 8, 2020, the court granted summary judgment in favor of Breckenridge, but stayed enforcement of the judgment pursuant to the Alameda County temporary eviction moratorium ordinance.

On August 25, 2021, the court entered judgment for Breckenridge. On August 31, 2021, a writ of possession issued. On September 13, 2021, claimant Juang filed this post-judgment claim, which alleges a rental agreement with Ramos.

On September 15, defendant Ramos filed a notice of appeal of the August 25, 2021 judgment.

In post-foreclosure unlawful detainer actions, an occupant who is not named in the writ of possession may file a claim of right to possession "at any time up to and including the time at which the levying officer returns to effect the eviction of those named in the judgment of possession, without regard to whether a prejudgment claim of right to possession has been served upon the occupant." (CCP §1174.3(a)(2).) At the hearing, the court takes evidence to determine whether the claimant has a written or oral agreement with (1) the landlord or a person who is an agent for the landlord or (2) is an "invitee,

licensee, guest, or trespasser." (CCP §1174.3(d).)

The court heard testimony by claimant Juang that he has been a tenant at the subject property since before the foreclosure sale, and has paid rent to Ramos during that time. He submitted a copy of a fixed term lease that appears to be dated on or about September 1, 2019, which references a prior tenancy dating back to 2014 in the "upper studio behind the main house," then a relocation to "the workshop lower-studio...with shared access to the main house" in October 2017. The lease purports to expand Juang's tenancy to the "main house master bedroom together with workshop lower-studio behind main house." Juang also provided the court with copies of cancelled checks to Ramos, and a copy of his California DMV car registration through December 10, 2018, listing 2703 Mathews St., Berkeley, as his address of record.

There is sufficient evidence to conclude that Juang has a valid claim of right to possession. The court does not address any challenges to the merits of the claim, or any notice issues, that may be raised by the parties in subsequent proceedings.

The post-judgment claim of right to possession of Oliver Juang is granted.

The complaint deemed amended to include Oliver F. Juang as a defendant. Once served with the summons and complaint, as amended, Mr. Juang shall answer or otherwise respond within five days thereafter. (CCP §1174.3(e)(2).)

The writ of possession issued on August 31, 2021, is hereby RECALLED and QUASHED.

The clerk is directed to notify the Sheriff immediately of this order.

Dated: 09/27/2021

*Victoria S. Kolakowski*<sup>11/21/21</sup>

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Judge Victoria S. Kolakowski