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**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, November 25, 2014
at 6:00 p.m.
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

President Gruber called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Abe; Crow; Gruber; Hung; Hurley; Marshall; Mosser;
Qian.
Commissioners not Present: Dandillaya; Mosbrucker.
Staff Present: Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of October 14, 2014.
(Hurley/Qian: 5-0)

IV. Consideration of Appeals

A. 5 Leo St. #A

AT140184

The tenant's petition alleging decreased housing services was dismissed due to her failure to timely appear for the properly noticed hearing. On appeal, the tenant maintains that she was late for the hearing because her keys were locked in the car and she had to take public transportation.

MSC: To accept the appeal and remand the case for a new hearing. Should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be scheduled. (Marshall/Crow: 5-0)

B. 1372 Pine St. #202

AT140185

The landlord's petition seeking rent increases for 15 of 27 units based on increased operating expenses was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Crow: 5-0)

C. 1485 Clay #9

AT140189

The landlord's petition seeking rent increases for 7 of 11 units based on increased operating expenses was granted. The tenant in unit #9 entered into a mediated agreement with the landlord deferring the increase through December, 2014 due to the tenant's unemployment, without prejudice to the tenant filing another hardship appeal prior to January, 2015 if the tenant was still experiencing financial hardship. The instant appeal is based upon the tenant's continuing unemployment.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Crow: 5-0)

D. 207 Gough #43 & 52

AT140190 & -91

The landlord's petition seeking rent increases for 26 of 36 units based on increased operating expenses was granted. The tenants in two units appeal the decision on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for hearings on the tenants' claims of financial hardship. (Marshall/Crow: 5-0)

E. 148 Del Monte St.

AL140183

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$150.00 per month due to the removal of a stove in the unit. On appeal, the landlord argues that: she removed the stove because a second stove is not allowed in a single family dwelling; and it was the tenant who threatened to report the situation to the Department of Building Inspection.

MSC: To deny the appeal. (Crow/Marshall: 5-0)

F. 1702 Steiner St.

AL140186

The tenant's petition alleging an unlawful rent increase from \$1,713.00 to \$4,200.00 based on Costa-Hawkins was granted because the ALJ found that, although the master tenant's principal place of residence appears to be in Spokane, Washington, she still also permanently resides at the subject unit for employment reasons. On appeal, the landlord argues that a Costa-Hawkins rent increase is warranted for the lawful subtenants of the unit because the master tenant no longer permanently resides there.

MSC: To deny the appeal. (Marshall/Crow: 5-0)

G. 1330 Pine St. #3

AT140187

The landlord's petition seeking a determination pursuant to Rules §1.21 was granted as the ALJ found that there was no "tenant in occupancy" at the subject unit at the time the petition was filed. The tenant appeals, claiming that: the decision presents her with a financial hardship; she let friends stay in the unit temporarily while she was being cared for by her family due to a medical condition; there are factual errors in the decision; the subtenants tried to steal the apartment from her; there is documentary evidence showing an address of 46th Avenue because that is where her family resides; and inconsistencies in her testimony at the hearing were due to sleeplessness and pain she was experiencing at the time.

MSC: To deny the appeal. (Abe/Gruber: 5-0)

H. 1049 Market #605

AT140188

The tenant's petition alleging an unlawful rent increase was denied on remand because the ALJ found that the unit is exempt from the Ordinance as a newly created live/work unit under Rules §1.17(g). The tenant appeals, arguing that: the permit clearly indicates that the work was not finished and no Certificate of Occupancy would be issued; there is no record of any request for renewal of the permit; events that happened 23 years ago have not been proved; the permit is inaccurate and invalid; the ALJ ignored eyewitness testimony that the 6th floor was unfinished in 1994, so the conversion could not have occurred in 1992; and the new Certificate of Occupancy was issued in error.

MSF: To accept the appeal and schedule the case for a hearing before the Board. (Marshall/Crow: 2-3; Abe, Gruber, Hung dissenting)

MSC: To deny the appeal. (Abe/Gruber: 3-2; Crow, Marshall dissenting)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A new Commissioner Roster.

B. Newly amended sections of the Rent Ordinance and an updated list of Ordinance amendments.

C. Printouts of new Spanish and Chinese home pages on the Agency's website.

D. A copy of the Department's Annual Report for Fiscal Year 2013-2014.

E. The office's monthly workload statistics for September and October 2014.

F. Articles from the S.F. Chronicle, the S.F. Examiner, BeyondChron, 48 Hills, the New York Times, and SFGate.

VI. Director's Report

Executive Director Wolf let the Board know that the first hearing was held where one of the parties, the tenant in this case, appeared via videoconferencing (Skype). She also told the Board that, in Fiscal Year 2013-2014, 89% of the ALJ's Decisions were timely submitted (within 36 days), which is excellent. In addition to the fillable forms Ms. Wolf reported on at the last Board meeting, she also outlined additional projects completed by temporary employee Lisa Kelley, in conjunction with Senior ALJ Sandy Gartzman: all new Spanish and Chinese home pages, accessible by clicking a button on the Rent Board's website home page; 22 of our most requested documents/forms now available in Spanish and Chinese on the website and at the office; all 10 "Fact Sheet" brochures now available in Spanish and Chinese on the website and at the office; all 80 "Info to Go" scripts on popular topics for landlords and tenants now available in Spanish and Chinese on the website; and 1 additional fillable/calculating PDF - General Bond Passthrough 2014-2015 – now on the website.

VII. Remarks from the Public

A. Attorney Dennis Zaragoza, representing the tenant at 1702 Steiner (AL140186), told the Board that the State Franchise Tax Board does make sure that the tenant pays taxes if she's working in California. Mr. Zaragoza said that the appellate courts use a different standard for Costa-Hawkins determinations and maintained "local bodies should be following State law on State law issues."

B. Landlord Maribelle Navarro of 148 Del Monte St. (AL140183) told the Board that the tenant and subtenant have moved out. Ms. Navarro said that the tenants gave her a hard time and were trying to extort move-out money from her. Ms. Navarro does not feel it fair for a tenant to be able to blackmail a landlord.

VIII. Calendar Items

December 16, 2014
7 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 7:06 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.