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

Tuesday, December 16, 2014
at 6:00 p.m.
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

Vice-President Marshall called the meeting to order at 6:07 p.m.

II. Roll Call

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

Commissioner Gruber appeared on the record at 6:10 p.m.

III. Approval of the Minutes

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

IV. Remarks from the Public

Attorney Clifford Fried, representing the landlord in the case at 238 Divisadero (AL140199), told the Board that the Superior Court ruled against the landlord in their Ellis eviction case because they failed to comply with several procedural requirements. As the court's decision is final, Mr. Fried said that the Board must allow the landlords to rescind the eviction notice. Mr. Fried maintained that collection of rent from the tenants would be a violation of the Ellis Act and, therefore, the decision constitutes a taking. Mr. Fried claimed that the ALJ's decision "sets a bad precedent," as the landlord can just remove some units in the building, and this would be bad for tenants.

V. Consideration of Appeals

A. 207 Gough #36

AT140198

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The landlord's petition for rent increases based on increased operating expenses to 26 of 36 units 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/Mosbrucker: 5-0)

B. 555 Eddy #24

AT140197

The tenant's appeal was filed almost two weeks late because the tenant had to vacate the unit, as he could not afford to pay the noticed rent increase.

MSC: To find good cause for the late filing of the appeal. (Gruber/Abe: 5-0)

The tenant's petition alleging an unlawful rent increase was administratively dismissed without a hearing because the tenant vacated the unit without paying the increase, which made the increase moot. On appeal, the tenant explains that he vacated the unit because he could not afford the rent increase and says that his current living situation is untenable.

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

C. 605 Jones #35

AL140194

The landlord's petition for certification of capital improvement costs to 27 of 32 units was granted, resulting in a passthrough in the amount of \$27.64. One tenant appeals the decision on the following grounds: the tenants' objections were unfairly dismissed; the new master key system does not make the building more secure; he does not use the laundry room in the building and therefore it provides him no benefit; and the improvements were done to appeal to a wealthier class of tenants.

MSF: To accept the appeal and remand the case for a hearing on the issue of whether the new door locks, door numbers and laundry room constitute capital improvements. (Marshall/Mosbrucker: 2-3; Abe, Gruber, Hung dissenting)

MSC: To deny the appeal. (Gruber/Abe: Marshall, Mosbrucker dissenting)

D. 1043-1053 Fell St.

AL140192

The landlord's petition for certification of capital improvement costs to 7 of 9 units was granted, in part, but the landlord failed to provide proof of cost and payment for the total amount of several items. On appeal, the landlord maintains that: the ALJ did not include all of the documented expenses; and indicated at the hearing that she was satisfied with the landlord's evidence regarding payment made to one of the laborers who performed the work.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a supplemental hearing to consider the issue of the claimed cost for labor provided by Adan Trejo. Additionally, the landlord should be provided the opportunity to pay for an estimator regarding the claimed costs for artificial turf and, if so, to consider whether artificial turf constitutes a capital improvement. (Mosbrucker/Marshall: 5-0)

E. 141 Broderick

AT140196

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$450.00 due to the lack of backyard maintenance for a 9-month period. The tenant appeals the decision, claiming that the ALJ did not have sufficient evidence to realize the loss of privacy caused by the security cameras installed by the landlords and aimed at his front door.

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

F. 2727 Mariposa, Unit #301

AT140193

The landlord's petition seeking a determination as to Rent Board jurisdiction was granted as the ALJ found that the subject unit is exempt as a newly constructed live/work unit pursuant to Rules §1.17(g). On appeal, the tenant argues that: the regulation must be strictly construed; there has been residential occupancy of the building between the date of enactment of the Ordinance and the date the Certificate of Occupancy was issued; and analyzing the reason for the exemption is only proper if the words of the exemption are satisfied, which is not the case here.

MSF: To accept the tenant's appeal and remand the case to the Administrative Law Judge with instructions to find that this a covered unit subject to the jurisdiction of the Rent Board. (Mosbrucker/Marshall: 2-3; Abe, Gruber, Hung dissenting)

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

G. 238 Divisadero, Units A, B & C

The landlord's Request for Rescission of Ellis notices to the tenants in three units was denied on remand because the ALJ found that the landlord failed to prove that no tenant vacated after the Ellis termination notices were served or that extraordinary circumstances warrant rescission. The landlord appeals based on fairness to the parties and to promote the policies and purposes of the Rent Ordinance. The landlord also maintains that, under the Decision, he is not entitled to collect rent, which results in a windfall to the tenants.

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

VI. Communications

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

A. A list of proposed Board meeting dates for 2015.

B. Articles from the S.F. Chronicle, the Examiner, BeyondChron, CalLawyer.com, and the New York Times.

VII. Director's Report

Executive Director Wolf told the Board that the annual allowable rent increase beginning March 1, 2015 will be 1.9%. She let them know that Supervisor Campos' legislation regulating buyout agreements will be effective March 7, 2015. Filing of Disclosure and Notification forms is not required if negotiations are begun before the effective date of the legislation, although any agreement executed after the effective date must be filed with the Rent Board within 46 to 59 days after execution. Ms. Wolf also invited the Commissioners to the Staff Holiday Party.

VIII. Calendar Items

January 20, 2015
12 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 7:15 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.