



Edwin M. Lee
Mayor

DAVID GRUBER
PRESIDENT

Delene Wolf
Executive Director

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

CALVIN ABE
DAVE CROW
SHOBA DANDILLAYA
RICHARD HUNG
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
KENT QIAN
DAVID WASSERMAN

Tuesday, December 3, 2015
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; Dandillaya; Gruber; Marshall; Mosbrucker;
Mosser; Qian; Wasserman.
Staff Present: Gartzman; Kearns; Varner; Wolf.

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

III. Approval of the Minutes

MSC: To approve the Minutes of October 26, 2015 with the following correction:
to reflect that it was Commissioner Abe, and not Dandillaya, who
requested clarification from the City Attorney regarding whether the Rent
Board has the authority to enact Commissioner Abe’s proposed
amendment to proposed Rules Section 6.15E(b) stating that a subtenant
who is deemed approved under 6.15E(c) shall not be considered an
approved subtenant for purposes of eviction under Ordinance Section
37.9(a)(7). (Mosbrucker/Abe: 5-0)

IV. Public Hearing

25 individuals spoke to the proposed amendments to Rules and Regulations Sections
6.15A, 6.15B, 6.15D and new proposed Section 6.15E to implement the recently passed
“Eviction 2.0” legislation (Ord. No. 171-15), sponsored by Supervisor Kim, which became
effective on November 9, 2015, as follows below:

1. Chris Bricker, the General Manager at Parkmerced, told the Board that the new legislation would have a big impact, as older, long-term tenants will be living in what amounts to a college dorm. Mr. Bricker anticipates decreased services claims due to noise. He said that the side effects of the legislation would depend on how the Board implements it.
2. Landlord Shirley Chang asked why the tenant should not be required to follow the original agreement. Ms. Chang expressed concern that, if the tenant could sublet, the new tenant could bring in another one, and “soon, the whole town will be in my unit.” Ms. Chang analogized to McDonalds, who “won’t feed everyone for \$5. The tenant needs to get another place if they want more occupants.”
3. Landlord Tracey Tang said that the tenant should have to prove hardship if they want additional roommates as she has to pay lots of bills and the rent has to cover the costs.
4. Landlord Gloria Leong asked that tenant hardship be made a requirement.
5. Landlord Hsieh Weng told the Board about his tenant who had 3 husbands and 3 kids, and the family made a lot of noise. Mr. Weng’s other tenants couldn’t stand it so he tried to evict her. She had parties at night with 20-30 people and only 1 bathroom, which isn’t enough for that many people.
6. Landlord Meina Young said that tenants can request hardship deferrals of passthroughs due to hardship and that landlords should also be able to request hardship. Ms. Young believes that the legislation was based on high rents but the rents for long-term tenants are low. Ms. Young told the Board that passthroughs are very difficult to obtain, as the landlord has to show 2 years worth of expenses.
7. Landlord Ken Young is a City plumbing inspector. He told the Board that tenants convert living spaces and pack in lots of people, which is unsafe, and so the owner then has to convert the property back to its original state.
8. Landlord Gus Cano said that many small landlords have old rental agreements with their tenants. Mr. Cano has a lone remaining Master Tenant who rents out rooms for \$3,000 while his rent is only \$1,800. The tenant doesn’t live in the unit but has left it to subtenants: Mr. Cano is convinced that the tenant will say the unit is his principal place of residence if Mr. Cano tries to raise his rent.
9. Landlord Chin Hong Lew expressed his support for a hardship requirement.
10. Mr. and Ms. Jiang expressed their support for the hardship requirement since they have a hardship also.
11. Amber Lamason works for an affordable housing company and said that she supports the “additional roommate law.” Ms. Lamason thinks, however, that no more than 5 people in a 2-bedroom apartment would be a reasonable compromise.

Ms. Lamason told the Board that lots of couples who aren't ready to get married could live together, which would open up units for others.

12. Berlin and Donna Shen supported hardship because Mr. Shen works two jobs and can't afford it.
13. Landlord Victor Wong said that the definition of "bedroom" is different in old Victorians, where a living room can be considered a bedroom. Mr. Wong is afraid that every room in his unit could become a bedroom, and this needs clarifying. Mr. Wong said that 6 people using 1 bathroom is a heavy load on the plumbing.
14. Sarah Stetler told the Board that her 82-year-old mother lives in her building, with tiny units above her that are fine for one person. Ms. Stetler believes that there are unintended consequences to laws like this, as she has a friend who kept her unit off the market because it wasn't worth her sanity. Mr. Stetler feels that 4-unit or less buildings should be exempt from the additional roommate provision and there should be hardship for landlords as well.
15. Landlord Kevin Lu told the Board that potential hardship is a factor he takes into account when evaluating tenants. He said that having additional tenants creates impacts on the owner.
16. Tenant G. Shah supports the Kim legislation and renters' rights and feels that the landlords are "fear-mongering." Mr. Shaw claimed that the rent laws have been watered down and said that, in the City of St. Francis, the Commissioners should "have a heart."
17. Attorney Gen Fujioka of the Chinatown Community Development Corporation told the Board that the Board of Supervisors has already addressed the issue of hardship in the legislation's Findings. Mr. Fujioka believes that the ability to choose who one wants to live with is an important right unto itself and that you shouldn't have to get married to live with your life partner. He said that no additional requirements should be imposed.
18. Landlord Alex Lim supported the hardship requirement and asked that the Board consider his hardship.
19. Charley Goss of the S.F. Apartment Association told the Board that the roommate provision wasn't in Supervisor Kim's original version of the legislation, which was amended 7 times. Mr. Goss said that the landlord community is fine with the other parts of the law. The testimony was all about economic need, which varies, depending on when the tenant moved in. Mr. Goss reminded the Board that the agency already has a process for proving hardship.
20. Ada, a small landlord, told the Board that she works 16-18 hours per day. She originally rented to the grandmother, but her tenant is now the grandson. He pays \$400 for a 1-room apartment with utilities included, which is a hardship for her.

21. Landlord Josephine Zhao told the Board she tried to do a passthrough, but it was confusing. Ms. Zhao feels that San Francisco is already very compassionate. Small businesses are supposed to make a bit of profit, but she is not even breaking even: “we’re a charity without the tax deduction.” Ms. Zhao said small landlords can’t afford any more costs being pushed on to them without proof of hardship.
22. Landlord Alex Ku said that the Kim legislation is “unreasonable,” that 35,000 units are sitting vacant, and that this rent control is “the worst in the USA, California, and maybe the whole universe.” Mr. Ku was upset that the Mayor gave tenant organizations 6.5 million dollars to fight against owners. Mr. Ku said he realized that the Board couldn’t change the legislation but wanted to speak about the difficulties to owners.
23. Cindy O’Neil’s parents are landlords. Ms. O’Neil feels “once you buy a tenant, they’re yours to keep,” and it goes on and on with no consideration given to the additional expenses on the other side. Ms. O’Neil said that the legislation is a tax laid at the feet of property owners, whose older buildings don’t fetch the rents the legislation is premised on.
24. Mitchell Omerberg of the Affordable Housing Alliance said that everyone is arguing about the legislation and proposing amendments, which is “irrelevant.” Mr. Omerberg told the Board that they are an administrative agency whose mandate is to implement legislation passed by the Board of Supervisors. Mr. Omerberg told the Commissioners the tenants didn’t “turn out tons of folks to waste time with things not in your purview.”
25. Landlord Wendy Wong said that all the rules are ruining the landlord-tenant relationship and that a landlord “can’t say anything or you get sued.” Ms. Wong feels that tenants “give you a hard time and have more power: they are the boss.”

After the public comment, the Board briefly discussed the proposed Regulations. Commissioner Wasserman told the Board that the additional roommate provision in the Kim legislation is “particularly polarizing,” and a huge issue for the landlord community. He disagreed that the Board is constrained as to their authority and said, rather, that “we have a lot of power.” He suggested that the Landlord and Tenant Commissioners come up with their own version of possible implementing regulations. Commissioner Crow said that this should have been raised earlier, and Commissioner Marshall stated her opinion that the Board is polarized because regulations are being proposed that “we have no authority to implement.”

The Board then voted as follows:

MSC: To approve the proposed regulations to implement the Kim Eviction 2.0 legislation, effective November 9, 2015. (Mosbrucker/Marshall: 3-2; Abe, Gruber dissenting)

V. Old Business

A. Implementation of Eviction Protection Legislation (Kim: Eviction 2.0, Ordinance No. 171-15): Issues and Possible Amendments to the Rules and Regulations

Prior to the meeting, Commissioner Wasserman submitted a proposal from the landlord community to amend proposed Rules §6.15E to require that a tenant requesting to add on roommates pursuant to the Kim legislation show hardship. The Executive Director asked that Deputy City Attorney Manu Pradhan prepare a confidential Memorandum addressing the question of whether the Rent Board may enact a regulation that would require a tenant who is requesting to add an additional occupant to the unit to make a showing of hardship. Commissioner Wasserman also said that he would have a short DVD presentation of statements by members of the Board of Supervisors during the hearings on the Kim legislation that would show that the legislation was promulgated to address tenant hardship; Charlie Goss of the S.F. Apartment Association showed the video prior to the Board going into Executive Session with counsel.

VI. Closed Session: Conference With Legal Counsel – Anticipated Litigation as Defendant (One Case): Implementation of Eviction Protection Legislation (Kim: Eviction 2.0, Ordinance No. 171-15): Issues and Possible Amendments to the Rules and Regulations

A. Vote on whether to go into closed session regarding anticipated litigation concerning the Kim Eviction Protection Legislation (S.F. Admin. Code 67.10{d})

MSC: To go into Closed Session. Mosbrucker/Abe: 5-0)

B. Closed session (Gov't Code 54956.9{d}{2}, {e}{2}; S.F. Admin. Code 67.10{d}{2})

The Board went into Closed Session from 7:35 to 8:00 p.m. with Deputy City Attorney Manu Pradhan to discuss anticipated litigation connected with implementation of the Kim Eviction 2.0 legislation.

C. Vote on whether to disclose and possible disclosure of any/all conversations held in closed session (S.F. Admin Code 67.12{a})

MSC: Not to disclose the Board's discussion regarding implementation of the Kim legislation. (Mosbrucker/Marshall: 5-0)

D. Report on any actions taken in closed session {Gov't Code 54957.1{a}{2}; S.F. Admin. Code 67.12{b}{2}}

Executive Director Wolf reported that the Board held a Closed Session to discuss implementation of the Kim Eviction 2.0 legislation with its attorney, and voted not to disclose the content of those conversations.

V. Old Business (cont.)

A. Implementation of Eviction Protection Legislation (Kim: Eviction 2.0, Ordinance No. 171-15): Issues and Possible Amendments to the Rules and Regulations

Commissioner Wasserman led off a brief discussion of adding a tenant hardship requirement to the Kim legislation's additional occupant provision by acknowledging staff's good work. Commissioner Dandillaya stated that she was open to further refinements in the regulations, which are a "work in progress." Commissioner Marshall said that the Tenant Community would have been fine to "let the legislation speak for itself," but the Mayor asked that the Board clarify what constitutes reasonable grounds for a landlord's denial, which the Board did in the newly adopted regs. She maintained that the political battle has already been fought at the Board of Supervisors, while Commissioner Wasserman told the Board that he was going to keep pushing for a hardship amendment to §6.15E.

B. Replacement of the Executive Director

The Board briefly discussed a process for replacing retiring Executive Director Wolf. It was generally agreed that there should be a Hiring Committee comprised of one Tenant and one Landlord Commissioner, who will bring back recommendations to the Board. This issue will be discussed further at the January 12th meeting, at which time the Landlord and Tenant Commissioners will have decided on who their representative will be.

VII. Communications

The Commissioners received the following communications:

A. Statements from 3 individuals regarding the Board's proposed implementation of the Kim legislation.

B. Proposed Commission meeting dates for 2016.

C. A Memorandum from the Human Resources Director regarding Mandatory Harassment Training, which must be completed by the end of the year.

D. A copy of the published appellate decision in the case of Foster v. Britton (Case: A139892 1st District, Division 4).

VIII. Calendar Items

December 15, 2015

16 appeal considerations (1 cont. from 11/10/15)

IX. Adjournment

President Gruber adjourned the meeting at 8:45 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.