



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, November 10, 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.  
Commissioners not Present: Hung.  
Staff Present: Collins; Gartzman; Jimenez; Kearns; Wolf.

Commissioner Mosser left the meeting at 7:30 p.m.  
Executive Director Wolf introduced new Rent Board Counselor Marissa Jimenez.

III. Approval of the Minutes

MSC: To approve the Minutes of October 13, 2015.  
(Marshall/Mosbrucker: 5-0)

IV. Remarks from the Public

A. Judy Toupin, the tenant in the case at 142 Tiffany Ave. (AL150116), said that the landlord accused her of having a special relationship with the property manager sufficient to justify a comps increase, but asked, "when did it become bad or illegal to be chummy with your neighbors?" Ms. Toupin admitted she is not paying market rent, but contended that the landlord didn't pay market for the building out of bankruptcy. Ms. Toupin lives separately from her husband, which has led to the landlord's allegation that she is "hoarding" units, but, is the landlord hoarding because he owns several buildings? Ms. Toupin asked if the landlord's attorney is a lawyer or fiction writer and said that she feels she is being harassed.

B. Attorney Karen Uchiyama, representing the landlord at 142 Tiffany, told the Board that a married couple is occupying a 2-bedroom unit upstairs and 1-bedroom downstairs at way below market rent. The Rent Board had suggested a comps petition when the landlord's 1.21 petition failed because the Board allows married people to have 2 separate apartments. Ms. Uchiyama claimed that there was no evidence to support the denial of the comps petition: the fact that the tenants are paying the same rent 23 years later speaks for itself. Ms. Uchiyama expressed her displeasure at the fact that there is "not enough housing in San Francisco but these tenants are hoarding 2 separate apartments for less than \$1,100."

C. Kimberly Rohrbach, representing the tenant at 142 Tiffany, told the Board that a below-market rent doesn't support a special circumstances petition, and that more evidence than one subpoenaed witness is required to prove a special relationship, who only testified that the tenant and property manager were "social." Ms. Rohrbach referred the Board to the cases cited in the tenant's brief.

V. 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 (S.F. Admin. Code 67.10{d})

MSC: To go into Closed Session to discuss implementation of the Kim Eviction Protection Legislation with counsel. (Marshall/Mosbrucker: 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 with Deputy City Attorney Manu Pradhan from 6:15 to 7:25 p.m. to discuss anticipated litigation as a result of the recently passed Kim 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 the scope of the Board's rule-making authority with regard to implementation of the Kim legislation, and voted not to disclose the content of those conversations.

IV. Remarks from the Public (cont.)

65 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. Many individuals advocated prospective-only application of the law, meaning that it would not apply to existing leases, and the notation “no retroactivity” indicates that position.

1. Charlie Goss of the S.F. Apartment Association said that, since the legislation doesn’t specify, in general the law is against retroactive application when existing contracts will be altered. Mr. Goss believes that the Rent Board has the authority, and cited cases he believes are on point. Mr. Goss also pointed out that the legislation intended to address market rents, and not below-market stabilized rents. Mr. Goss said “vetting tenancies is in everyone’s interests.”
2. Landlord John Silk said that retroactivity is unfair and invites lawsuits.
3. Landlord Mindy Kershner said that new Section 6.15E is confusing, which will just draw more units off the market. Ms. Kershner wondered how new tenants interact with the covenants of the lease, and asked, if the Master Tenant doesn’t give them a copy, are they bound?
4. Landlord Linda Erkelens: no retroactivity; the law is unfair to existing leases and tenants.
5. Landlord Constance Ghannon: no retroactivity. Ms. Ghannon is a mom-and-pop landlord who relies on the income from her building. She feels that a potential roommate merry-go-round in an owner-occupied building is unfair.
6. Tenant Betty Mackey said that there is a shortage of affordable housing and the legislative intent was clearly to protect the needs of current tenants and keep them in San Francisco.
7. Tenant Allison Wright said that she supports the Kim legislation because San Francisco is becoming the “home of the new homeless.” Ms. Wright thinks that housing is a human right, and not just a way to make money. She told the assembled landlords “it may be time to get out of the landlord business.”
8. Susan Weisberg is a long-time renter and Tenants’ Union counselor who said that astronomical rents are forcing tenants to bring in roommates. Making the legislation apply only to new leases would be contrary to the intent.
9. Tenant Renee Curran said that the new legislation wouldn’t affect her personally, but that more residents of illegal rooming houses are coming in to the Tenants’ Union. Ms. Curran told the Board that many tenants don’t want more roommates, but have no choice. She feels that this legislation is a “small compromise,” because we should be talking about a rent freeze.

10. Tenant Attorney Scott Weaver told the Board their role is to be bound by the Ordinance whether they like it or not. If the Board of Supervisors did not want the Kim legislation to apply to existing tenancies, they would have said so. Mr. Weaver advocated for no prospective or retroactive application: just existing tenancies.
11. Jennifer Fieber of the Tenants' Union told the Board "the eviction crisis is now, not necessarily in the future." Ms. Fieber maintained that adding roommates is an effective way of adding housing without the City having to build it, since we need density.
12. Tommi Avicolti Mecca of the Housing Rights Committee told the Board that in 1979, the Rent Ordinance was applied to tenancies that were already in effect, and there is nothing in the Kim legislation that supports another interpretation. If breach of the lease provisions of the legislation apply to existing tenancies, why should the roommate provisions be treated any differently? Mr. Avicolti Mecca asked that the Board "honor the work we did in passing this law" and not take away a "hard-earned right."
13. Attorney Matt McFarland of the Tenderloin Housing Clinic told the Board there is no mention in the various sections of the legislation of future tenancies or leases, and the Board of Supervisors passed it without adding prospective application language: the law won't reach back retroactively, but will be applied prospectively on a going-forward basis. Mr. McFarland said that the legislation doesn't violate any Supreme Court decisions.
14. Attorney Ryan Murphy of the Eviction Defense Collaborative told the Board that the legislation protects tenants facing displacement, which obviously applies to existing tenancies as it was intended to address the affordability crisis. Mr. Murphy said that prospective application "guts it" and doesn't help him do his job. Mr. Murphy asked that the Board not over-step their bounds.
15. Landlord Richard Brydon told the Board that he has to maintain fundamental safety in his rental units, which involves knowing who's there. Mr. Brydon takes safety very seriously and said that it's impossible to move problem tenants out of a building, although only about 10% of tenants don't pay attention to the rules.
16. Landlord Pam Gill lives in the building with her tenant, and they share the yard and washer and dryer. Ms. Gill said that the relationship is "tense, but o.k." Ms. Gill believes that a tenant should not be able to violate a written contract and is tempted to "move out of the City and say to hell with it."
17. Landlord Grace Lau said, "If you book a hotel or restaurant, you don't take in additional people," and the Kim legislation creates an unsafe environment for her and her family.
18. Landlord Meina Young told the Board that the legislation is based on numbers that don't reflect reality and that tenants have "hit the lottery." Ms. Young feels that

tenants don't move out so landlords can't move in, and they just flip on a switch and use utilities. Ms. Young spends two days a week dealing with tenant problems and the \$800 per month she is receiving for a 3-bedroom unit including water doesn't cover it. Ms. Young was told by Supervisor Kim's Aide that the legislation doesn't nullify existing leases.

19. Landlord Pat Crowe said that the rules are always changing, but landlords make decisions based on the existing rules. Ms. Crowe believes that, if the law was detrimental to tenants, it would not be retroactive. She also asked that the Board come up with a submetering plan to address the drought.
20. Noni Richen, President of the Small Property Owners of San Francisco, said "as the rent control laws got stricter, folks stayed longer." Ms. Richen used to charge \$50 or \$100 for an additional roommate to cover expenses: "this is a giveaway." Ms. Richen now only rents to family members and believes that "the people complaining about the housing shortage are, in large part, creating it" as there are 20 vacancies in her one block. Ms. Richen asked that the law only apply to new leases.
21. Teresa Flandres spoke for Marla Knight, who is a tenant and community member. Ms. Knight is concerned about "broken communities," as so many of her elderly neighbors are being forced out. Ms. Knight believes that, if they could have a roommate, they could possibly stay.
22. Peter Reitz of the Small Property Owners said that long-time tenants don't need protection because their rents are still low; he believes that they want additional roommates to make money. If they qualified for the unit when they moved in, they still qualify.
23. Landlord Mike Leong: no retroactivity.
24. Tenant Jay Majitor appreciates that landlords are wanting to get rid of long-term tenants to rent to rich techies but, "it's a law, folks." Mr. Majitor said that the eviction crisis is now, and the law was created to solve the problem now – prospective application would gut it. Mr. Majitor told the Board that the landlords had their opportunity at the Board of Supes, and the law needs to be applied as written.
25. Chirag Bhakta of the Mission SRO Collaborative told the Board that this legislation is due to the situation on the ground right now, wasn't passed by the Board of Supervisors to protect against a future hypothetical eviction crisis, and asked that the Board "protect the tenants of this City." "Anyone who was there knows it was meant to protect tenants today."
26. Tenant Patricia Kerman said that the new roommates wouldn't be unknown, because they still have to apply and the landlord still gets to vet them. Ms. Kerman is retired with no pension and said that, without roommates, she would be

on the streets even though her rent is low. Ms. Kerman pointed out that City codes dictate how many people can live in a unit.

27. Tenant Sylvia Smith told the Board that her building was sold, and “now I’m the worst criminal in San Francisco.” Ms. Smith’s landlord has accused her of being a drug dealer and prostitute, and is “the worst landlord in San Francisco.” Ms. Smith was evicted due to the presence of her grandson in the unit: after her husband died, she had an empty room. She asked the Board to do something because she’s going to be homeless: “Shame on San Francisco; shame on you guys!”
28. Landlord Bill Kwan told the Board that some tenants would try and exploit the law since they travel a lot and want to sublease on Airbnb. Mr. Kwan wants to know how he can verify what they charge and thinks it’s unfair that they will be making market rate while he’s not.
29. Tenant Chandra Redack lives at 1049 Market Street. Ms. Redack believes that, “as more and more bodies pile up in tents and doorways, we need to look into our hearts to help them stay in their homes.” She asked the Board to “save the soul of San Francisco,” because they have the power to bring so much good to so many.
30. Donald Dewsnap of the Bay Area Renters’ Federation says he supports the tenant protections but thinks they should be made retroactive to 2012 to protect seniors from having to get a roommate. Mr. Dewsnap urged the Board to build more affordable apartments, as there is “plenty of space of build affordable units.”
31. Landlord Terrence Jones said that the new regulations would mean that he has no control over a rented studio in his building that his teenage daughter has to walk through. Mr. Jones intends to just Ellis the building, so the City will lose housing. Mr. Jones sees the potential for AirBnB abuse but says he could live with the new law moving forward, because he could make decisions accordingly.
32. Small property owner Lisee Chan says she only charges her tenant \$450, including water and garbage; no retroactivity.
33. Tenant activist Cathy Lipscomb told the Board that they are appointed, not elected, officials whose job is to “implement the law, not gut it.” Ms. Lipscomb maintained that any expansion of tenants in a unit would have to be within the confines of the housing code. As the Anti-Displacement Coalition worked for almost a year to get this passed, Ms. Lipscomb prevailed on the Board not to attempt to revoke it.
34. Mid-Market tenant Corina Zona said that it isn’t appropriate to object to the 2.0 legislation, as it is too late. The Board has to deal with the law that was passed, and no one talked about it as in the future; landlords talked about how it would affect existing leases. Ms. Zona believes that background checks are o.k.
35. Tenant Naomi Cooper told the Board that having a live-in caretaker keeps people in their homes. She asked the Board not to discriminate, which “wasn’t Jane Kim’s intention.”

36. Landlord Aubrey Freedman told the Board that he has only one tenant, who he loves, but that “we don’t need busybodies from City Hall telling us how to live our lives.” Mr. Freedman believes the legislation will make people go out of the landlord business; he would never let someone in who he didn’t have a say over. If a landlord can’t charge more, the property will run down: this is mob rule.
37. Tenant Jubert Berrios told the Board he could only afford a room in an SRO, and the new legislation will help disabled tenants. Mr. Berrios said that the legislation would give him the impetus to get a roommate and continue to live. He told the Board to stop building condos and start building affordable housing.
38. Tenant Justin Ryan said that the details of the legislation were hashed out at the Board of Supervisors. Mr. Ryan believes that some of the landlords present wouldn’t be affected and may not realize it.
39. Tenant Ben Cavarra told the Board he will be affected if they change what’s already passed. He brought in a friend who’d been evicted, but the landlord said the individual has to leave, even though he’s not a dangerous criminal, and they didn’t have parties. Mr. Cavarra said that the landlords had their chance and, “if you want to get out of the business, get out.” Not all rent-controlled tenants are paying \$800 per month.
40. Tenant Shannon Bolt was dismayed by so much “misinformation” on the landlords’ part and asked the Board to focus on her testimony and disregard the “erroneous” testimony from the landlords. Ms. Bolt’s landlord objected to one more person moving in than was on the lease. She told the Board that before the first Tech Boom in 1992, San Francisco was a place where people could afford to live and that it is “outrageous” that landlords are “holding us hostage” by threatening to take units off the market.
41. Landlord Shirley Chang said that the new regulations shouldn’t apply to rents that are below \$2,500, because the rent should be enough to cover the mortgage, property taxes, and insurance. Ms. Chang believes that 2.0 allows tenants to abuse landlords and other tenants. Ms. Chang said, “you have to get off the bus so that other people can get on the bus.”
42. Landlord Eva Leung said that she is very nice, but won’t be any more because of rent control. Her tenants owe 4 months’ rent, but say they have no money; they also use too much water. Ms. Leung has worked 16 hours a day for 6 years without a day off, and says she is poor: “rent control only helps tenants: who is helping for me?”
43. Daniel told the Board he has been a renter in Chinatown for many years, but he now needs a bigger place for his family. Since he believes that 2.0 will take units off the market, Daniel is concerned about supply and demand.

44. Landlord Lillian Somarrib told the Board she took into account how many people were going to live in the unit when she rented the place. Ms. Somarrib isn't rich, and works hard. She asked who the legislation is protecting, since some of the tenants have money.
45. Landlord Ron Dubois knows that the Board is fair and balanced, since he had a case before them and won 5-0. Mr. Dubois said that tenants say that landlords knew the rules, but "we didn't know these rules." Mr. Dubois doesn't want to sell the building, but can't make heads or tails of the proposed regulations and asked whether a dining room would be counted as a bedroom.
46. Landlord Peter Holden said that nowhere in the legislation does it say that it applies to tenancies in place, and rent control changes existing relationships. Mr. Holden told the Board that his water bills have "skyrocketed," and additional roommates will make it even worse. He asked that the Board not unnecessarily add to landlords' burdens.
47. Ken Hoegger has been a landlord for 35 years. He argued that the Kim legislation will make the market worse for both sides, in that units will be kept off the market, used as short-term rentals, or Ellised. He believes that the legislation makes a vacant unit more valuable than an occupied one. He feels it is wrong to make owner-occupants share their home with multiple tenants.
48. Claudia Tirado addressed San Francisco's teacher shortage and said that her school didn't have a teacher for a month. Her building was sold; the landlord moved in, and then Ellised. Ms. Tirado claimed that teachers "don't care about money, just the classroom," and asked that the Board "do the right thing for all of us."
49. Dena Aslanian-Williams is the manager of her 90-year-old mother's properties. Ms. Aslanian-Williams contended that, if the Kim legislation is made retroactive and leases are rendered null and void, she wants to get out of the business. She said that even her Marxist son agrees that the housing crisis should not be put on the backs of private property owners.
50. Landlord Ching Lam has one rental unit that he has rented for \$1,000 for 7 years: make the law for the future.
51. Landlord Kathy Hoegger claimed that the laws are so draconian that many, many people will be holding units off the market. Mr. Hoegger told the Board they have to come up with other solutions to create more housing and that the regs are too convoluted. She maintained that social problems are being put on the backs of landlords.
52. Landlord David Leung said that landlords have a difficult time refusing a request for an additional occupant, and that tenants' family members "move in forever." Mr. Leung feels that tenants are selfish: his tenants took him to the Rent Board after they used his washer and dryer.

53. Landlord Kathy Wu told the Board that her 90-year-old mother took in a tenant who had constant boyfriends, although the lease is for 1 person only. One of the boyfriends tried to break into the unit twice. No retroactivity.
54. Landlord Jane Lee has to make expensive repairs in her unit while her tenants sublet at a big profit. She never had that kind of tenant before, and it is not right. She asked the Board to make the law fair for both sides.
55. Mitchell Omerberg of the Affordable Housing Alliance told the Board that administrative bodies pass Rules and Regulations to further the law and fill in the details. He said that Rent Board Senior Staff has drafted such a Rule and the Board should pass that Rule. Mr. Omerberg speculated that perhaps public testimony serves some purpose, but the Board is not a legislative body, and “we already have a law.”
56. Lorraine Petty has been a landlord and a tenant and believes in checks and balances. She said that administrative rules are one thing, but changing the law is another. As the roommate provisions are concerned with the letter and intent of the law, she told the Board not to “open a loophole after it’s been closed.”
57. Landlord Minnie Leong came to this country with only \$200, but she worked very hard and went to school to achieve the American dream. Ms. Leong told the Board that not all landlords are bad, and that she will be depressed if the Kim legislation is applied to existing contracts.
58. Lawrence Lee was a long-time renter who finally bought a place. Mr. Lee believes that Berkeley’s very strict rent control has made it a slum. He also thinks that many renters are richer than he is but they have a voice; he has no voice.
59. Landlord May Lee rents a 3-bedroom unit to 4 people for \$1,040. She thinks that landlords and tenants used to be balanced, but things are no longer fair. No retroactivity.
60. Attorney Gen Fujioka of the Chinatown Community Development Center told the Board that if laws couldn’t affect the terms of tenancies, we wouldn’t have rent control. He said that all of these arguments were presented to the Board of Supervisors but failed, and told the Board to listen to the testimony of the hearings. Mr. Fujioka believes that the issue of retroactivity distracts from legitimate issues that the Board of Supervisors said the Rent Board should address.
61. Michael Fong told the Board he manages his mother’s building, where the rents are very low. He hopes that the Board does the right thing, and finds a balance.
62. Marlene Tran said that the Board should consider providing translation at their meetings because people who don’t speak English are afraid to come. She told the Board not to pit the tenants against the small property owners. She also asked where the representation was for small owners.

63. Landlord Meina Young inherited a house where the tenant had 3 children but kept “adding, adding, adding.” No retroactivity.

64. Landlord Representative Josephine Zhao told the Board that her organization is made up of first generation immigrants who have to share their homes with other people because they are not rich. Ms. Zhao said that “tenants are our lifeline and we try to be the best landlords we can.” Ms. Zhao told the Board that, in the aftermath of the Titanic, “the survivors were swimming towards the lifeboats.”

65. Jadma Noronha of the Mission SRO Collaborative told the Board that the law was passed to close eviction loopholes and it was clear that it was to be effective immediately. While SRO hotels are not a good place for families, it’s “there or on the streets.” Landlords have the right to refuse additional occupants, so Ms. Noronha asked that the Board focus on how to implement the new legislation.

## VI. Consideration of Appeals

### A. 416 Monterey Blvd.

AL150120

The tenants’ petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$4,356.45 due to loss of parking and storage space in the garage. On appeal, the landlord maintains that: the ALJ failed to take into account the landlord’s evidence as to the value of the garage; the ALJ failed to provide the basis for the \$350 valuation of garage parking and the \$65 reduction for garage storage; and the ALJ exhibited bias on behalf of the tenants.

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

### B. 1401 Ocean Ave. #2

AL150117

The tenants’ petition alleging an unlawful rent increase and improper utility passthrough, water revenue bond passthrough and a general obligation bond passthrough was granted and the landlords were found liable to the tenants in the amount of \$714.95. On appeal, the landlords claim that: the ALJ did not give them credit for a banked increase; the requisite documentation was provided to the tenants’ representative; and they provide copies of the relevant bills.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to examine the new evidence; a hearing will be held only if necessary. (Marshall/Mosbrucker: 5-0)

### C. 969 Dolores St.

AL150118

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 \$10,700.00 due to water intrusion into the lower level of the unit and a restriction against shared use of the backyard. The landlord appeals on the following grounds: the lease does not provide for exclusive use of the rear yard and disallows storage in the area; the landlord was not given notice that a

prior tenant would testify by phone; the tenants were running a business out of the property and committing other violations of the lease; the rent reduction is too high as the tenants still have the use of a majority of the space; and the subtenant fabricated evidence and should not be considered credible.

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

D. 633 Lincoln Way #3

AL150115

The tenants' petition claiming unlawful rent increases was granted and the landlord was found liable to the tenants in the amount of \$4,242.50. On appeal, the landlord claims that: the hearing was one-sided, since her postponement request was not granted; certain sums granted by the Administrative Law Judge (ALJ) have already been refunded by the landlord to the tenants; and the rent increase was based on the tenants' choosing a month-to-month tenancy instead of renewing their annual lease.

MSC: To deny the appeal except to remand the case to the Administrative Law Judge for a necessary Technical Correction to the Decision.  
(Marshall/Mosbrucker: 5-0)

E. 633 Tiffany Ave.

AL150116

The landlord's petition for a rent increase from \$618.56 to \$1,400.00 based on comparable rents was denied because the ALJ found that the landlord failed to prove that the initial rent was set very low due to a special relationship between the former landlord and the tenants. On appeal, the landlord argues that: the decision provides no criteria as to what constitutes a special relationship for purposes of a comps increase; the decision is unsupported by the evidence and testimony provided; the ALJ abused his discretion by not determining a comparable rent for the unit; and the ALJ exhibited bias in favor of the tenants.

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

F. 1600 Filbert #35

AL150119

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 \$1,225.00 due to loss of use of a tandem parking space. On appeal, the landlord argues that: the ALJ erred in finding that the tenant reasonably expected that the parking space would be shared by another tenant in the building; the landlord did not take away the parking space but, rather, the tenant elected to no longer park in the space; and the decision should be remanded for a finding that the tenant has now been fully compensated for loss of the service and the landlord is now at liberty to re-rent the space.

After a brief discussion, it was the consensus of the Board to continue consideration of this case to the next meeting.

## VII. Communications

In addition to correspondence concerning cases on the calendar and implementation of the Kim Eviction 2.0 legislation, the Commissioners received the following communications:

- A. A copy of the amended Rent Ordinance and List of Ordinance amendments.
- B. A multi-lingual Notice to Tenant to accompany notices to terminate tenancy, as required by Ordinance §37.9(c).
- C. A copy of the Agency's Annual Report for Fiscal Year 2014-2015.
- D. Articles from 48 hills, BeyondChron, and the S.F. Chronicle.

## VII. Director's Report

Executive Director Wolf reminded the Commissioners to complete their Sexual Harassment Training by the end of the year. She also told them that Judge Hamilton has issued an order granting the City's motion for judgment on the pleadings as to all claims in the case challenging the tenant buyout ordinance; plaintiffs can appeal this decision to the Ninth Circuit.

## VIII. 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

After listening to voluminous public comment, the Commissioners continued their discussion of proposed amendments to Rules Sections 6.15A, 6.15B, 6.15D and new Section 6.15E in order to implement the Kim Eviction 2.0 legislation, which took effect on November 9<sup>th</sup>. Commissioner Mosbrucker wanted it specifically stated that the provisions for requesting an additional occupant do not apply where the lease or rental agreement includes neither a limit on the number of occupants nor any restriction on subletting or assignment. Commissioner Wasserman felt that this wasn't necessary, but Commissioner Mosbrucker responded that it also wasn't necessary to clarify that the proposed Rules do not waive a landlord's rights under Costa-Hawkins. Regarding a tenant's request for an additional occupant, the Board agreed by consensus to deem the request received on the date of "delivery," as opposed to "service." Commissioner Marshall also proposed that a landlord's background check should include the proposed new occupant's full name, date of birth and references if requested, as opposed to the more general "references and background information."

The Landlord Commissioners argued strenuously that the new regulations should only apply prospectively to new tenancies that begin after the effective date of the Ordinance amendment; the Tenant Commissioners just as vociferously felt that the intent of the legislation was to ease the financial burden on existing tenancies. Commissioner

Dandillaya said that she could find no evidence of the Supervisors' intent that the legislation apply only on a going-forward basis. Commissioner Abe was also concerned that a tenant "deemed approved" under 6.15E would not be able to be evicted under Ordinance Section 37.9(a)(7), which allows a landlord to evict when "The tenant holding at the end of the term of the oral or written agreement is a subtenant not **approved** (emphasis added) by the landlord," and suggested language to clarify that would not be the case.

The Board then voted to put the proposed Rules out for Public Hearing, including the Mosbrucker clarification that the proposed Rules do not apply where there are no occupancy or subletting limitations in the rental agreement; the Wasserman non-waiver of Costa-Hawkins language; the Marshall background check provisions; and some additional non-substantive cleanup changes to the proposed language, as follows below:

- MSF: To put out for public hearing the proposed amendments to Rules Sections 6.15A, 6.15B and 6.15D and new Section 6.15E and to specify that proposed new Section 6.15E shall apply only to tenancies that commence after November 9, 2015. (Abe/Gruber: 2-3; Dandillaya, Marshall, Mosbrucker dissenting)
  
- MSC: To put out for Public Hearing the proposed amendments to Rules Sections 6.15A, 6.15B and 6.15D and proposed new Section 6.15E. (Mosbrucker/Marshall: 3-2; Abe, Gruber dissenting)
  
- MSF: To clarify that a subtenant who is deemed approved under Rules Section 6.15E shall not be considered approved for purposes of Ordinance Section 37.9(a)(7) or California Civil Code Section 1954.53(d). (Abe/Gruber: 2-3; Dandillaya, Marshall, Mosbrucker dissenting)

The Public Hearing on the proposed amendments will be held on December 3, 2015.

#### B. Replacement of the Executive Director

Due to the lateness of the hour, this issue was continued to the December 3<sup>rd</sup> meeting.

#### IX. Calendar Items

December 3, 2015

Public Hearing: Proposed Rules and Regulations to Implement the Kim Eviction 2.0 Legislation

Old Business: Implementation of Kim Legislation

Executive Session: Anticipated Litigation

Executive Session: Personnel

#### X. Adjournment

President Gruber adjourned the meeting at 12:01 a.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.**