



Edwin M. Lee
Mayor

Robert A. Collins
Executive Director

DAVID GRUBER
PRESIDENT

**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, January 10, 2017
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 6:06 p.m.

II. Roll Call

Commissioners Present: Abe; Crow; Gruber; Hung; Mosbrucker; Qian; Wasserman.
Commissioners not Present: Dandillaya; Marshall; Mosser.
Staff Present: Collins; Lee; Varner.

Commissioner Hung appeared on the record at 6:08 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 13, 2016.
(Mosbrucker/Qian: 4-0)

IV. Remarks from the Public

A. Alexander Volkov, the attorney for the tenants at 529 Wildwood Way (AT160138), asked at what point, if ever, can the landlord say they have no intent to rent the unit? Mr. Volkov stated that six months is an extremely short period of time to use as proof that the unit is no longer available for re-rental.

B. Edward Singer, the attorney for the landlord at 529 Wildwood Way (AT160138) stated that the downstairs unit was illegal, that the new landlord saw that there was no one living in the downstairs unit when it was shown and there were no indicia of a separate residential unit at the time of purchase. Mr. Singer asked that the Board uphold the decision.

C. Brandon Tang, the attorney for the landlord at 1600 Clement Street #304 (AL160144), told the Board that the landlord didn't have access to her photographs of the unit at the time of the two hearings and the photos were submitted once the landlord had access to them.

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D. Sophie Lau, the landlord at 1600 Clement Street #304 (AL160144), said that the photographs that were just recently submitted with the appeal were taken with an iPhone, and that she totally forgot about them, and then the mail function on the phone wasn't working, so she sent it out to be repaired, and she just recently got the phone back.

E. The subtenant at 755 Rhode Island Street (AL160136), Anna Yuan, said that she just received the master tenant's additional response that day. She stated that the move-in date listed on the master tenant's house rules, among other items, is false.

F. Noah Budnick, one of the tenants at 1600 Clement Street #304 (AL160144), stated that after two hearings, this is the first he heard that the landlord had a problem with her phone, and he and his wife hope that the commissioners support the decision.

V. Consideration of Appeals

A. 1440 Sutter Street #5

AT160146

The tenant's petition alleging an unlawful rent increase was dismissed due to her failure to appear at the scheduled hearing. On appeal, the tenant claims not to have received the Notice of Hearing until the day of the hearing and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

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.
(Mosbrucker/Qian: 5-0)

B. 138 Hyde Street #14

AL160147

The tenant's application requesting deferral of a water bond passthrough on the basis of financial hardship was granted. The landlord appeals, claiming that they did not receive the copy of the tenant's application and the Request for Hardship Hearing Form prior to issuance of the decision.

MSC: To accept the appeal and remand the case for a hearing.
(Mosbrucker/Gruber: 5-0)

C. 4 Farallones Street

AL160135

The tenants' petition for decreased housing services was granted in part and denied in part. The landlord was found liable to the tenant in the amount of \$1,890.00 for failure to allow the tenants use of the second washing machine, and for a mouse infestation. On appeal, the landlord argues that the tenants caused the mouse infestation because they did not keep the unit clean and kept the back door open, and that the new washing machine was to replace the second machine that had only ever been for the landlord's family to use.

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

D. 575 Burnett Avenue #4

AL160137

The subtenant's petition alleging that she paid a disproportional share of rent was granted. The master tenant was found liable to the subtenant in the amount of \$6,098.72. On appeal, the master tenant argues that the subtenant's proportional share should be increased because the other subtenant's room has a lower value than the rooms of the master tenant and subtenant petitioner.

MSC: To deny the appeal.
(Abe/Gruber: 4-1; Mosbrucker dissenting)

E. 751 Spruce Street

AL160140

The landlord's appeal was filed 2 days late because his attorney believed the appeal had earlier been received at the Rent Board via fax when it had not been received.

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

The tenants' petition alleging a rent increase under the Costa-Hawkins Rental Housing Act was granted. The ALJ found at the time of service of the notice of rent increase, tenant Zamanizadeh had established a direct landlord-tenant relationship with the landlord by conduct, and was not a subtenant or assignee, and that the rent increase was null and void. On appeal, the landlord argues that the landlord's agent, United Three Groups, Inc., is the master tenant and landlord for the premises, that none of the rent checks were made out to the landlord, and that he did not authorize cashing of the checks.

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

F. 2904 California Street #6

AL160141

The tenants' petition for decreased housing services was granted. The landlord was found liable to the tenants in the amount of \$795.00 for lack of a properly functioning mailbox and lack of an additional key. The landlord appeals, arguing that he is not liable for lack of a properly functioning mailbox as it is the fault of the U.S. Postal Service.

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

G. 1600 Clement Street #304

AL160144

The tenants' petition for decreased housing services was granted in part and denied in part. The landlord was found liable to the tenants in the amount of \$5,900.00 for leaks in

the dining room and water ceiling damage, an inoperable intercom system, and bubbling kitchen paint. On appeal, the landlord argues that the awards to the tenants were excessive, that the ALJ ignored the landlord's testimony and evidence, that the delay in setting up the 415 number for the intercom system was the fault of the tenants, and that the peeling and bubbling kitchen paint was caused by the tenants' negligence.

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

H. 150 Brighton Avenue, Lower Unit

AL160133

The landlord's appeal was filed 28 days late because the landlord was in mourning due to her husband's recent death.

The tenant's petition alleging a substantial decrease in housing services and an unlawful rent increase was granted, and the landlord was found liable to the tenant in the amount of \$5,436.17 for rent overpayments resulting from null and void increases, and \$4,445.00 for rent reductions corresponding to the decrease in housing services. At the December 13, 2016 board meeting the landlord appealed on the basis of financial hardship, and the case was remanded to the ALJ to hold a hearing on the landlord's claim. The landlord now appeals the decision on the merits, arguing that the tenant is failing to pay her share of the utilities, that the tenant claims that she did not call the Department of Building Inspection (DBI) to make a complaint but that complaints were in fact made in 2016, that previous complaints had never been made to DBI because maintenance issues were met by the landlord, and that rent increases were mutually agreed upon.

MSC: To find no good cause for the late filing of the appeal.
(Mosbrucker/Qian: 5-0)

I. 755 Rhode Island Street

AL160136

The subtenant's petition alleging that she paid a disproportional share of rent was granted. The master tenant was found liable to the subtenant in the amount of \$7,642.30. On appeal, the master tenant argues that the property is a single-family dwelling and therefore is not subject to the rent control limitations of the Rent Ordinance. The master tenant also argues that the methodology used to determine the subtenant's rent was incorrectly applied because it did not take into account the amenities or value of the room, utilities paid by the master tenant, and the subtenant's use of common areas.

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

J. 4 Keyes Alley

AL160143

The landlord's appeal was filed 26 days late because the landlord was out of the area due to the death of her father.

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

The tenants' application requesting deferral of three capital improvement passthroughs on the basis of financial hardship was granted. The landlord appeals, claiming that because the tenants had previously filed for hardship as to two of the capital improvement passthroughs and were denied under the old standard, they should be estopped from being granted hardship under the new standard. The landlord also argues that because the tenants entered into a conditional stipulation in a 2012 unlawful detainer action where they promised to pay her a specific rent amount, they should continue to pay her that amount.

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

K. 529 Wildwood Way

AT160138

The tenants' petition alleging a rent increase beyond the allowable limits was denied. The ALJ found that the subject unit was exempt from the rent control provisions of the Rent Ordinance under Civil Code Section 1954.52(a)(3)(A) of the Costa-Hawkins Rental Housing Act as a single-family dwelling. The tenants appeal, arguing that the landlord cannot unilaterally expand the scope of the tenancy without the tenants' consent, that the tenants declined to accept the expanded tenancy for the entire single-family dwelling, and that the rent increase was retaliatory and in conflict with HUD and S.F. Housing Authority Regulations.

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

L. 230 Santa Rosa Avenue

AL160139

The tenants' petition alleging an unlawful rent increase was granted, and the landlord was held liable to the tenants for overpayments in the amount of \$8,200.00. The landlord appeals, arguing that major improvements and expenses caused by the tenants' negligence were a reason for rent increases and therefore the overpayment calculation should be reassessed.

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

M. 436 Murray Street

AL160142

The subtenant's petition alleging a disproportional share of rent was granted. The master tenant was held liable to the subtenant in the amount of \$7,391.04. The master tenant appeals, arguing that the ALJ ignored the fact that the original base rent was set by the landlord, not the master tenant, and that the subtenant paid rent directly to the landlord for two or four years.

The Commissioners agreed to continue this appeal for further consideration at the February 14, 2017 meeting.

VI. Communications

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

A. Workload statistics for the month of November 2016.

B. Articles from S.F. Chronicle, S.F. Examiner, New York Times, BeyondChron, MissionLocal, and KQED News.

VII. Director's Report

Executive Director Collins welcomed new Administrative Law Judge Harrison Nam.

VIII. Calendar Items

February 14, 2017

A. 8 appeal considerations (1 continued from 1/10/17)

B. Fiscal Year 2017-2018 Departmental Budget

XI. 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.