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BARTHOLOMEW MURPHY
KENT QIAN

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

Tuesday, May 22, 2012
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:	Crow; Dandillaya; Hurley; Marshall; Mosbrucker; Qian.
Commissioners not Present:	Beard; Gruber; Mosser; Murphy.
Staff Present:	Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of April 24, 2012.
(Mosbrucker/Hurley: 4-0)

IV. Remarks from the Public

A. Attorney Marilyn Kalman, representing the tenant at 376 San Carlos (AT120045), told the Board that this is a case of "factual disputes." She said that the tenant, who was not represented at the hearing, found the Estoppel Certificate confusing. Ms. Kalman would like to "bring the facts before the Board for a proper evaluation."

B. Anthony Lewis of 508 Larkin #508 told the Board that he is disabled with lung disease. The elevator has been out in his building for two years and other tenants settled with the landlord for a 15% rent reduction. Mr. Lewis believes he deserves a greater amount because his need is greater, and he goes in and out of the building more frequently, but the Administrative Law Judge granted him a slightly lesser amount.

C. The landlord in the case at 2801 Greenwich (AL120043) told the Board that she did not get a fair hearing and asked for a second chance or further review. She said that she provided all the supporting documentation to prove her version of the facts.

D. Michael Mulladey told the Board that he is the grandson of the owner of the building at 376 San Carlos (AT120045) and that the case is a classic “he said, she said.” Mr. Mulladey said that the tenant provided unsupported facts and made untrue statements, including that Mr. Mulladey had moved out of the building when he had not.

V. Consideration of Appeals

A. 566 Fell #5

AT120047

The landlords’ petition for certification of capital improvement costs to 11 of 16 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. (Mosbrucker/Hurley: 4-0)

B. 755 Burnett #7

AT120051 & -52

The landlord’s petitions for certification of capital improvement costs to 10 of 12 units were granted. The tenant in 1 unit appeals the decisions on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on the tenant’s claims of financial hardship. (Mosbrucker/Hurley: 4-0)

C. 2801 Greenwich

AL120043

The tenant’s petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$1,136.00 due to habitability defects on the subject premises. The landlord appeals, claiming that: the tenant caused much of the damage to the unit; the tenant failed to give the landlord notice of the needed repairs; the tenant is not credible and made up the complaints to get out of his lease without losing his security deposit; the tenant failed to pay rent in a timely manner; and the tenant and his attorney threatened and harassed the landlord.

MSC: To deny the appeal. (Mosbrucker/Marshall: 3-1; Hurley dissenting)

D. 312 – 30th Ave.

AT120048

The tenants’ appeal was filed six months late because the tenants believed that their landlord was making good faith attempts to remedy the noise problem from a downstairs unit.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Mosbrucker: 4-0)

The tenants’ petition alleging decreased housing services and the landlord’s failure to repair was granted only as to a bathroom in disrepair and the landlord was found liable to the

tenants in the amount of \$567.00. The tenants appeal on the issue of alleged noise from a downstairs unit, which they contend the landlord has failed to address.

MSC: To deny the appeal. (Hurley/Dandillaya: 4-0)

E. 64 Barcelona Ave.

AL120050

The tenants' petition alleging unlawful rent increases was granted and the landlord was found liable to the tenants in the amount of \$6,059.24. On appeal, the landlord agrees that she made a minor mistake in the calculation of banked increases in 2008, but argues that the responsibility should be shared by both parties since the tenant agreed to the increase and also did not notice the calculation error.

MSC: To deny the appeal. (Mosbrucker/Hurley: 4-0)

F. 508 Larkin #508

AT120046

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$2,307.00 due to an inoperable elevator and reduced laundry room hours. On appeal, the tenant claims that: other tenants who live on the same floor in the building received a larger rent reduction pursuant to a settlement agreement with the landlord; and the tenant is older and disabled and should have received a higher, not lower, amount than the other tenants.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record with instructions to grant the tenant a rent reduction in the amount of \$150.00 per month due to the inoperable elevator.
(Mosbrucker/Dandillaya: 4-0)

G. 925 Geary #205

AL120049

The landlord's appeal was filed eleven days late because the landlord's representative was tasked with other duties and was unable to compile and file the appeal during the specified timeframe.

MSF: To find no good cause for the late filing of the appeal.
(Mosbrucker/Marshall: 2-2; Dandillaya, Hurley dissenting)

MSC: To find good cause for the late filing of the appeal. (Hurley/Dandillaya: 3-1; Mosbrucker dissenting)

The tenant's petition alleging decreased housing services due to the presence of bedbugs and other habitability problems in his unit was granted and the landlord was found liable to the tenant in the amount of \$1,750.00. The landlord appeals on the grounds that: the landlord proved that the bedbugs had been eliminated by the time of the hearing; and the

Notice of Violation has not been abated because of a lack of cooperation on the part of the Department of Building Inspection.

MSC: To deny the appeal. (Mosbrucker/Marshall: 4-0)

H. 376 San Carlos

AT120045

The tenant's petition alleging unlawful rent increases was denied. On appeal, the tenant claims that: rental of two storage rooms in the basement of the building were included in his initial base rent; the tenant acquired use of the garage in 2003 for an additional \$50 charge; the landlord's heirs were not involved in management of the property while the landlord was alive, and are unfamiliar with the particulars of the tenant's rent history; and the landlord's post-hearing submissions contained false representations.

MSC: To accept the appeal and remand the case for a supplemental hearing in order for the Administrative Law Judge to re-consider the issue of the Estoppel Certificate and whether storage was included in the tenant's base rent at the inception of the tenancy. (Mosbrucker/Hurley: 4-0)

I. 725 Sanchez

AT120044

The tenant's petition alleging an unlawful rent increase, decreased housing services and the landlord's failure to repair was denied because the ALJ found that the subject unit is an exempt single family dwelling pursuant to Costa-Hawkins. The tenant appeals on the grounds that: the legislative intent of the Costa-Hawkins Rental Housing Act was that vacancy decontrol should only apply if the previous tenant voluntarily vacated the unit; and an exception to Costa-Hawkins exists if there were long standing code violations on the premises prior to the time the vacancy was created.

After discussion, it was the consensus of the Board to continue consideration of this appeal to a future meeting.

VI. Communications

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

A. A copy of proposed Assembly Bill 1925, introduced by Assemblywoman Ma. This legislation, if passed, would preempt Ordinance §37.9C with regard to the amount of relocation payments required for a temporary eviction of a tenant for less than 20 days for capital improvement work.

B. Articles from BeyondChron, the Small Property Owners of San Francisco newsletter (SPOSFInews), Mission Local, the S.F. Chronicle, and the S.F. Apartment Magazine.

VII. Director's Report

Executive Director Wolf told the Board that there have been several fires lately that have displaced a large number of tenants but, since the rental market is in an extremely overheated phase, there is little incentive for “good Samaritan” landlords to offer below market rate housing. She also informed them that she would be going before the Budget Committee of the Board of Supervisors on May 23rd for a hearing on the Department’s proposed budget.

VIII. Calendar Items

July 17, 2012

9 appeal considerations (1 cont. from 5/22/12)

IX. Adjournment

Vice-President Marshall adjourned the meeting at 7:20 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.