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BARTHOLOMEW MURPHY
AMELIA YAROS

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

Tuesday, August 3, 2010
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 6:00 p.m.

II. Roll Call

Commissioners Present:	Beard; Gruber; Hurley; Marshall; Mosbrucker.
Commissioners not Present:	Crow; Henderson; Murphy; Mosser; Yaros.
Staff Present:	Gartzman; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of June 15, 2010, with a technical correction to the motion for 960 Oak Street, Appeal No. AT100028, as follows [correction underlined]: "To deny the tenant's appeal except to remand the case to the Administrative Law Judge to adjust the rent reduction granted by adding the 2.2% annual increase that was issued after the hearing in this case."
(Marshall/Hurley: 5-0)

IV. Remarks from the Public

A. Ray Hartz submitted a written statement and he read it aloud. His statement is appended to these Minutes. He also told the Board that he is paying an unfair extra \$65.00 per month, but he is more bothered by the poor families in his building. He stated that hardship appeals violate the right to privacy. He claimed that the Administrative Law Judge abused his authority and that the Rent Board is acting illegally because it is not recording its meetings. He said that it took him six months to get information about an employee and that the Rent Board staff unlawfully withheld documents.

B. Julia Love, the tenant at 4276 23rd Street, informed the Board that this is the second appeal by the landlord and the landlord has not disputed the tenant's testimony in either hearing, he just doesn't agree with the decision.

C. Doris Marowsky, the landlord of 47 Prospect Avenue, and Steven Nemec, the property manager, told the Board that the tenant appellant and her attorney knew about the missed hearing date because it was referenced by the tenant's attorney in a declaration submitted in a related matter.

V. Consideration of Appeals

A. 55 Chumasero Dr. 6-K

AT100055

(rescheduled from 7/20/2010)

The tenant's appeal was filed one day late because the tenant has been experiencing medical difficulties.

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

The landlord's petition for approval of utility passthroughs to 62 of 153 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. 1036 Polk #501

AT100056

The tenant's hardship appeal of a decision certifying capital improvement costs was granted and the tenant was granted a one-year deferral of the passthrough. The decision also provided the tenant with the right to re-open the case should the tenant still be experiencing financial hardship after the year expired, which the tenant claims to be the case.

MSC: To accept the appeal and remand the case for a hearing on the tenant's renewed claim of financial hardship. (Mosbrucker/Hurley: 5-0)

C. 750 Gonzalez Dr. 4-L

AT100059 thru -62

The tenant's hardship appeal of four cases was granted on remand and the tenant was given a temporary deferral through December 31, 2010, in order to give her time to find a roommate for the subject two-bedroom unit. The tenant appeals the remand decision, claiming that she is afraid for her health if she is forced to live with a stranger and her income to rent ratio meets the Board's hardship guidelines.

MSC: To grant the appeal and remand to the Administrative Law Judge to permanently defer the remaining passthroughs. (Mosbrucker/Marshall: 3-2; Gruber, Hurley dissenting)

D. 47 Prospect Ave.

AT100057

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant provides a Declaration of Non-Receipt of Notice of Hearing and provides a new mailing address, as she has vacated the subject unit.

MSC: To accept the appeal and remand the case for a new hearing; absent extraordinary circumstances, should the tenant again fail to appear, no further hearings will be scheduled. At the hearing, the Administrative Law Judge should evaluate the evidence regarding the tenant's claim of non-receipt of the notice of hearing. (Beard/Marshall: 4-1; Mosbrucker dissenting)

E. 214 Garces Dr.

AT100063

The tenant's petition alleging decreased housing services due to lack of heat in the unit was granted and the landlord was found liable to the tenant in the amount of \$75.00 per month, or \$318.75. On appeal, the tenant argues that: the decision did not explain how the value of the housing service was determined; the ALJ considered several inaccurate facts and came to erroneous conclusions; the ALJ failed to take proper administrative notice of relevant facts provided in a prior Rent Board case; and the ALJ failed to properly apply the Rent Ordinance.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to evaluate the two alleged factual errors regarding the space heaters and the tenant's absences from the unit, and to consider the amount of the rent reduction; a hearing will be held only if necessary. (Beard/Marshall: 4-1; Hurley dissenting)

F. 4276 – 23rd St.

AL100058

The tenant's petition alleging decreased housing services due to lack of heat in the unit was granted and the landlord was found liable to the tenants in the amount of \$616.50. On appeal, the landlord maintains that the rent reduction should commence after he was notified of the problem and given a reasonable amount of time to make the repairs.

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

G. 1221 Jones PHD2

AT100064

The landlord's petition seeking rent increases for 29 of 72 units due to increased operating expenses was granted. The tenant in one unit maintains that the increase granted is more than was requested in the petition, which contradicts established arbitration procedures.

MSC: To accept the appeal and remand the case for service of the amended petition on the five affected units and to give the tenants an opportunity to object, after which the Administrative Law Judge may determine whether a supplemental hearing is necessary in this case. (Mosbrucker/Hurley: 5-0)

H. 1083 Union #3

AL100065

The tenant's petition alleging decreased housing services was granted and the landlords were found liable to the tenant in the amount of \$1,331.25 due to inadequate heat and defective windows in the unit. On appeal, the landlords claim that the timer for the heat is set for 5:00 a.m. but it takes time to generate steam heat; and the window was repaired in August of 2009 rather than February of 2010.

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 copy of the Court of Appeal's 6/14/10 decision in Embassy LLC v. City of Santa Monica regarding a landlord's unenforcable waiver of rights under the Ellis Act.

B. The office workload statistics for the months of May and June 2010.

C. Articles from the S.F. Chronicle, SF Weekly, BeyondChron, the New York Times, The Potrero View, and the S.F. Bay Guardian.

VII. Director's Report

Executive Director Wolf informed the Board that the Rent Board fee for 2010-2011 will remain the same at \$29.00 for residential units and \$14.50 for guest units. She also let the Board know that all staff are receiving pay reductions in the form of furloughs (non-paid work hours). Ms. Wolf announced that five Commissioners were sworn in on August 3, 2010 for another four-year term: Gruber, Hurley, Marshall, Mosbrucker and Mosser. Ms. Wolf also told the Board that Proposition F regarding tenant financial hardship was defeated on the June ballot and that the Charter amendment proposed by Supervisor Campos, which would have changed the composition of the Rent Board Commission, was tabled and will not be on the November 2010 ballot.

IV. Remarks from the Public (cont.)

D. Ray Hartz stated that the agenda says the Rent Board follows the Sunshine Ordinance, but they don't. He stated that the Board is still not recording meetings and it is the only Commission or Board that doesn't do so. In addition, he said that the Board meets in a basement and nobody knows where they are, and the Board does not listen to anybody. He alleged that Administrative Law Judge Berg violated three canons of judicial ethics and he adjourned the hearing while the tenant was still asking questions. He informed the Board that he will be telling the Board of Supervisors about the Rent Board and asking for information about the Commissioners. He said they can be sued personally if they are acting outside their authority.

VIII. Calendar Items

Next Board Meeting:

September 21, 2010

IX. Adjournment

President Gruber adjourned the meeting at 7:01 p.m.

Addendum: Any summary statements provided by a speaker during Remarks from the Public are appended hereto. Their contents are neither generated by, nor subject to approval or verification of accuracy by the San Francisco Rent Board.

Rent Board comments, August 3, 2010:

Unlike some City boards, I'll give the Rent Board their due. When they open public comment, they are honest in telling the people who come to speak that the board has no obligation to consider anything a person says in reaching their determination. What that essentially means, is that the body making decisions about things that affect the lives of participants in the actions before the board, think it is fair to deny them an opportunity to actually have their positions considered. What that essentially means is that you can "jack your jaw," but they can ignore you! After all, the United States Constitution guarantees free speech, but makes no guarantee that government will listen. They are letting you speak, because they have to. The irony, is telling the public, they can simply ignore us! But as I said, although admitting to be unfair, at least they're being honest.