



Gavin Newsom  
*Mayor*

DAVID GRUBER  
*PRESIDENT*

Delene Wolf  
*Executive Director*

BROOKS BEARD  
DAVE CROW  
DEBORAH HENDERSON  
JIM HURLEY  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
AMELIA YAROS

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

Tuesday, May 18, 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 6:05 p.m.

II. Roll Call

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

Commissioner Murphy appeared on the record at 6:09 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 20, 2010.  
(Crow/Marshall: 5-0)

IV. Remarks from the Public

A. Tenant Ray Hartz spoke to issues surrounding open government and claimed that tenants are not being protected. Mr. Hartz told the Board that their Minutes say "know your rights under the Sunshine Ordinance," but maintained that the Department fights Sunshine requests because it is a non-Charter Commission subject to different requirements. Mr. Hartz believes that the Department shouldn't "look for a technicality" to pick and choose which provisions of the Sunshine Ordinance to follow because "anyone who tries to hide something has something to hide." Mr. Hartz also said that written statements of no more than 150 words should be included in the Minutes and submitted a written statement, which is appended to these Minutes.

V. Consideration of Appeals

A. 1690 Broadway #304 & 307

AT100044 & -45

The landlord's petition for certification of capital improvement costs to 43 of 80 units was granted. The tenants in two units appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #304 and schedule a hearing on the tenant's claim of financial hardship. (Marshall/Murphy: 5-0)

MSC: To accept the appeal of the tenant in unit #307 and schedule a hearing on the tenant's claim of financial hardship. (Marshall/Murphy: 5-0)

B. 161 Powell #312

AT100049

The tenant's petition alleging decreased housing services was granted only as to the elimination of a shared kitchen for which the landlord was found liable to the tenant in the amount of \$212.50. On appeal, the tenant claims that the format of the hearing made it difficult for her to know if she had presented all of the relevant facts and the hearing was inadvertently not tape-recorded.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Murphy/Gruber: 5-0)

C. 450 Jones #501

AL100047

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 \$330.00 due to habitability defects on the premises. On appeal, the landlord claims that the condition of the bathroom was found to have been abated as of March 24<sup>th</sup> but the rent reduction was ordered through April 30<sup>th</sup>.

MSC: To deny the appeal but the parties shall make the appropriate adjustment to the rent pursuant to the April 27<sup>th</sup> Memorandum from the Administrative Law Judge. (Marshall/Murphy: 5-0)

D. 616 Fell St.

AL100046

The tenants' petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$3,500.00 due to habitability defects on the premises. The landlord appeals, maintaining that the Administrative Law Judge (ALJ) ignored his testimony in favor of the tenants' and that the tenants were responsible for some of the defective conditions.

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

E. 2055 California #102

AL100043  
(cont. from 4/20/10)

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$600.00 for rent overpayments. On appeal, the landlord claims that: the tenant's \$800.00 rent was not increased but, rather, a \$1,400.00 rent which included the provision of resident manager services was re-established when those services were terminated; the landlord made the same offer to a friend of the tenant's, which proves the terms of the tenancy; similar units in the building were being rented for \$550-\$650 more at the time the subject tenancy commenced; the tenant admitted that he showed vacant units to prospective tenants at the beginning of his tenancy; and there is no rational basis for the conclusion reached by the ALJ.

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

F. 734 Bush, Apt. 22

AT100032  
(cont. from 4/20/10)

The tenant's petition alleging an unlawful rent increase was denied because the ALJ found that the last original occupant of the unit had died and the tenant, his son, had not established a direct landlord-tenant relationship with the owner of the building. Therefore, the rent increase from \$356.26 to \$1,600.00 per month was authorized by Costa-Hawkins. The tenant appeals, claiming that: the evidence he submitted was not adequately considered and he has additional evidence not available at the time of the hearing showing that he was living in the subject unit; he did not have an attorney at the hearing; the third party payee agreement that he signed was mis-represented to him; and the landlord committed perjury at the hearing.

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

G. 2240 Golden Gate Ave. #302

AL100041 & -42  
(cont. from 4/20/10)

The landlord's petition seeking a determination pursuant to Rules §1.21 was denied because the ALJ found that the subject unit is the tenant's principal place of residence. The tenant also filed a petition alleging unlawful rent increase and the tenant's base rent was found to have included parking at the inception of the tenancy, but not PG&E. The landlord appeals the decision, arguing that: the tenant does not satisfy most of the criteria in §1.21 and therefore cannot be considered a "Tenant in Occupancy;" and, since the tenant signed a lease agreement that sets the amount of rent and specifically excludes parking as a parking service, parol evidence cannot be introduced to vary the terms of the agreement.

MSF: To deny the landlord's appeal on the issues of the Rules Section 1.21 determination and the amount of rent for the unit without prejudice to the landlord filing a comparable rent petition; to grant the rent increase for

parking upon proper notice. (Murphy/Gruber: 2-3; Crow, Marshall, Yaros dissenting)

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

H. 545 O'Farrell #107

AT100048

The tenant's petition alleging an unlawful rent increase was denied because the ALJ found that the banked rent increase was correctly calculated and imposed. On appeal, the tenant maintains that the landlord failed to follow the Board's regulations in calculating the increase and that favoritism was exhibited towards his landlord, who is a Commissioner on the Rent Board.

MSC: To recuse Commissioner Mosser from consideration of this appeal.  
(Mosser/Murphy: 5-0)

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

#### VI. Communications

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

A. Updated copies of the Rent Ordinance and staff rosters.

B. The office workload statistics for the month of March 2010.

C. A letter to the Mayor's Office from Janan New, Director of the S.F. Apartment Association, requesting that funds for updating the 2000 San Francisco Housing DataBook study be included in this year's budget.

D. Articles from BeyondChron, the Los Angeles Times, the S.F. Chronicle, the S.F. Apartment Magazine, and the S.F. Examiner.

E. A letter from Executive Director Wolf to Mayor Newsom regarding Proposition F on the ballot.

#### VII. Director's Report

Executive Director Wolf told the Board that new counselor Tomás Lee has joined the agency's staff. She also let the Board know that the Supreme Court rejected the petition for review filed by the defendants in the Litke v. Chacon case regarding tenants' right to reoccupy their units after being served with a temporary eviction notice for capital improvements and subsequent Unlawful Detainer. Lastly, Ms. Wolf informed the Board that Supervisor Campos has proposed a Charter amendment for the November ballot which would make the Rent Board a Charter Commission and change the composition to 3

Tenant Commissioners, 2 Landlord Commissioners and 2 Neutrals, with appointments to be split between the Mayor and Board of Supervisors.

IV. Remarks from the Public (cont.)

B. Ray Hartz said that the Rent Board's Executive Director says that she supports open government but that the Board doesn't have to follow all provisions of the Sunshine Ordinance. Mr. Hartz requested information, which he believes to be "clearly disclosable", but was withheld. He asked if the Board was really afraid of what he'd write in 150 words. He alleged that if the ALJ rules in favor of the landlord, the Board follows blindly but, if the landlord is ruled against, the Board "makes things up."

VIII. New Business

Ballot Initiative Regarding Tenant Financial Hardship Applications

The Executive Director gave the Board an article from the April 29<sup>th</sup> S.F. Examiner regarding Proposition F on the June ballot, which pertains to tenant financial hardship. The article incorrectly states that "the City's Rent Board" is opposed to the Proposition. Ms. Wolf also gave the Commissioners a copy of a letter she wrote to Mayor Newsom, expressing some concerns regarding possible implementation problems should the measure pass. Ms. Wolf never represented that the views expressed were anything but hers and Senior Staff's, and not the position or consensus of the Board. The Commissioners asked that she write a clarifying letter to the Examiner.

IX. Calendar Items

May 25<sup>th</sup>, June 1<sup>st</sup> and 8<sup>th</sup>, 2010 – NO MEETINGS

June 15, 2010

6 appeal considerations

X. Adjournment

President Gruber 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.**

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

**I believe the process used by this board is unfair to all renters with business before the board. I believe this is true for two reasons:**

**First, try to get any information about the Rent Board and it's City paid employees and see how they fight to keep the information hidden. This is true, despite the fact that the Sunshine Ordinance states clearly that you are entitled to the information.**

**Second, try to place a statement into the Minutes of their meetings, again covered under the Sunshine Ordinance, and they will fight you every step of the way.**

**Who are these people and whose interests do they serve? Not the renters of San Francisco**

**And, they Claim to be open and fair!**