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BARTHOLOMEW MURPHY
KENT QIAN

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

Tuesday, November 13, 2012
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 6:03 p.m.

II. Roll Call

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

Commissioner Murphy appeared on the record at 6:05 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 16, 2012.
(Hurley/Mosbrucker: 5-0)

IV. Consideration of Appeals

A. 3560 – 21st St. #2

AT120108 & -09

The landlord's petition for certification of capital improvement costs to 9 of 10 units was granted, in part, resulting in a monthly passthrough in the amount of \$55.72. One tenant appeals the decision on the grounds of financial hardship as well as claiming that: he should not have to pay as much for the new windows, since his windows were not replaced; the work was necessitated by the current owner's deferred maintenance; some of the work was in the nature of repair and maintenance; he does not benefit from the work; he did not receive adequate due process; it is unclear that the costs were reasonable; and the interest rate granted is higher than current market rates.

MSC: To deny the tenant's substantive appeal. (Mosbrucker/Murphy: 5-0)

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

B. 363 Mississippi

AT120110

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 claims to have miscalendarated the hearing date and asks that another mediation be scheduled.

MSC: To accept the tenant's 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.

C. 1246 Bush #2

AT120105

The tenant's petition alleging unlawful rent increases was denied because the Administrative Law Judge (ALJ) found that a 4-year lease agreement prohibiting banked rent increases did not apply to time periods after the lease expired. On appeal, the tenant argues that: the rent increases are disallowed pursuant to relevant provisions in the lease; the landlord committed perjury at the hearing; and the ALJ exhibited bias against the tenant and unprofessional conduct at the hearing.

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

D. 3110 Laguna #6

AL120106

The tenant's petition alleging an unlawful rent increase from \$630.00 to \$1,900.00 was granted because the ALJ found that the tenant, who grew up in the unit, was a pre-1996 occupant and therefore no increase was authorized by Costa-Hawkins. On appeal, the landlord argues that: the death of the tenant's mother terminated her tenancy and the tenant's is a new tenancy; the tenant is not a lawful subtenant because, as a minor child, he was not lawfully able to enter into a contract; and any subtenancy would have commenced after January 1, 1996, the operative date for a Costa-Hawkins rent increase.

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

E. 2011 – 17th Ave.

AT120107

The landlord's petition requesting a determination as to whether a rent increase is warranted pursuant to Costa-Hawkins was granted because the ALJ found that the original tenant no longer permanently resides in the subject unit and the only occupant of the unit is a post-1996 subtenant. The subtenant appeals on the grounds that he is actually a co-tenant because he has had many interactions with the landlord over the years; the landlord accepts rent checks with his name on them; and the landlord refers to him as a tenant and to herself as his landlord in her communications with him.

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

V. Communications

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

A. The office workload statistics for the months of August and September, 2012.

B. Articles from the S.F. Chronicle, the S.F. Examiner, Curbed SF and the Bay Guardian.

VI. Director's Report

Executive Director Wolf told the Board that their annual holiday dinner will take place after the meeting on December 11th and invited them to the Staff Holiday Party at Don Ramon's restaurant on December 20th at noon.

VII. Old Business

Assembly Bill 1925

AB 1925, which adds new Civil Code Section 1947.9 effective January 1, 2013, limits the amount of relocation payments a landlord is required to pay tenants for temporary displacements of less than 20 days. Since the state law supersedes the Rent Ordinance with regard to the amount of relocation benefits a landlord must pay for temporary evictions, the Rent Board's unofficial version of the Rent Ordinance will be annotated to refer to the controlling state law in temporary evictions for capital improvement work under Ordinance §37.9(a)(11) and for lead abatement work under Ordinance §37.9(a)(14).

The Board discussed whether they should adopt regulations to implement the provisions of the bill, since there are questions that are not addressed by the legislation (i.e., when are landlords required to pay the mandated relocation payments?; what happens if the tenant has to vacate for longer than the 20 days?; etc.). The Board asked Senior ALJ Tim Lee to request a City Attorney Opinion on the Board's authority to adopt regulations that fill in the gaps of the state law; and identify issues raised by the new state law and possible amendments to the Rules and Regulations that might address those issues.

VIII. Remarks from the Public

The tenant at 2011 – 17th Ave. (AT120107) told the Board that he has lived in his unit for twelve years, and the landlord has always treated him like a tenant. He expressed disappointment that the Board denied his appeal since he “feels like a tenant” and he spent a lot of time on his case.

IX. Calendar Items

December 11, 2012
10 appeal considerations

Old Business: AB 1925

New Business: Communication Regarding Proposed Legislation

X. Adjournment

President Gruber adjourned the meeting at 6:50 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.