



Mark Farrell
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 16, 2018
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: Abe; Crow; Dandillaya; Gruber; Hung; Mosbrucker;
Mosser; Wasserman.
Commissioners not Present: Marshall; Qian.
Staff Present: Collins; Koomas; Varner.

President Gruber welcomed Commissioner Dandillaya back to the commission meetings after an extended absence.

III. Approval of the Minutes

MSC: To approve the Minutes of December 12, 2017.
(Mosbrucker/Crow: 5-0)

IV. Remarks from the Public

A. Tammy Buhler, the tenant at 795 – 20th Ave #2 (AT170115), stated that she had only submitted a small amount of evidence to prove her claims about the landlord’s harassment and that if there is more that is needed, she can submit it at a later time.

B. Edward Singer, the attorney for the landlord at 922 Post Street #503 (AL170110), told the Board that petitioner Nagi Said lacks standing, and that he no longer seems to be living in the unit. Mr. Singer stated that Nagi Said filed a petition that he falsely claimed he was still living in unit, but then admitted on cross examination that he was not living in the unit, and testified that his father was living in Yemen and not living in unit. Mr. Singer asked whether Nagi Said had standing even if he did not sign the petition. He said that he disagreed with the ALJ’s determination that Nagi Said was an occupant.

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V. Consideration of Appeals

A. 795 – 20th Avenue #2

AT170115

The tenant's petition for unlawful rent increase was dismissed due to the tenant's non-appearance. On appeal, the tenant claims that she did not receive the Notice of 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 new hearings will be scheduled.

(Mosbrucker/Crow: 5-0)

B. 1020 Leavenworth Street

AL170111

The subtenant's petition claiming a disproportional share of rent was granted. The master tenant was found liable to the subtenant in the amount of \$6,947.28. The master tenant appeals, but does not offer any basis for her appeal.

MSC: To deny the appeal.

(Abe/Gruber: 5-0)

C. 577 – 14th Avenue #2

AT170107

The tenant's petition for decreased housing services and unlawful rent increase was denied. The ALJ found that twice annual pruning of garden trees and ivy and exclusive use of the backyard and garden were not housing services included in the tenant's base rent; that the tenant failed to prove that the lack of twice annual tree pruning constituted a substantial decrease in housing services; and that the tenant did not meet her burden of proving that the inability to use the fireplace for 38 days between requesting cleaning and the chimney being cleaned constituted a substantial decrease in housing services. The ALJ made no determination regarding any claims the tenant may have under state law according to the tenant's claim that the tenant and former landlord had a binding agreement prohibiting the landlord from increasing the rent. The tenant appeals on the basis that the banked 27 year rent increase is illegal and the sudden revoked private use of the back garden for unit 2 to now be a common space for the building are long time precedent-setting binding agreements.

MSC: To deny the appeal.

(Abe/Gruber: 3-2; Crow, Mosbrucker dissenting)

D. 2227 Taylor Street #1

AT170117

The tenant's application requesting deferral of an operating and maintenance (O&M) expense passthrough on the basis of financial hardship was denied as untimely since it was not filed within one year of the effective date of the O&M rent increase. The tenant appeals, arguing that she filed for hardship immediately after learning of her right to do so

after issuance of the decision, and that the Board should reconsider the late filing of the application given her financial status.

MSC: To accept the appeal to find good cause for the late filing of the hardship application and to remand the case to the ALJ to consider the tenant's claim of financial hardship.
(Mosbrucker/Crow: 5-0)

E. 1216 Taylor Street #22

AT170116

The tenant appeals the decision granting the landlord's petition under Rules and Regulations Section 1.21. In the decision, the ALJ found that the subject unit was not the tenant's principal place of residence at the time the petition was filed on June 13, 2017, and that there was no other tenant in occupancy. The ALJ determined that the landlord is entitled to increase the rent without limitation under the Ordinance, and that the landlord's notice of rent increase to \$3,375.00 is authorized by Regulations Section 1.21. The tenant appeals, arguing that the ALJ abused his discretion by excluding statements during hearing about from where she mailed her rent, that she did not state that her belongings were in the unit except for clothing, that she told the truth about the number of days she stayed in San Francisco each month, that she was always at work when repair people came to the subject unit, and that the ALJ did not evaluate the case using the totality of the circumstances.

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

F. 2330 Larkin Street #10

AL170108, AL170109

The subtenants' petitions each alleging a disproportional share of rent were granted. The ALJ found the master tenant liable to subtenant Thublier in the amount of \$4,245.01 and to subtenant Lee in the amount of \$12,677.02. The master tenant appeals, arguing that the subtenants unreasonably delayed in bringing their claim, that the ALJ mischaracterized the facts, and that the value of the master tenant's services were high and therefore the proportional shares should be adjusted.

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

G. 922 Post Street #503

AL170110

The tenants' petition alleging an unlawful rent increased under the Costa-Hawkins Rental Housing Act was granted. The ALJ found that on the date of service of the notice of rent increase, tenant Nagi Said no longer permanently resided in the unit. The ALJ further found that the landlord failed to meet his burden of proving that when the notice of rent increase was served, the original tenant Mohamed A. Said no longer permanently resided in the subject unit, and therefore was not entitled to impose a rent increase under Civil Code Section 1954.53(d)(2). On appeal, the landlord argues that petitioner Nagi Said

lacked standing to file the petition because he was not a tenant of the subject unit at the time he filed the petition.

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

H. 922 Post Street #507

AT170112

The tenant's petition alleging a substantial decrease in housing services was denied. The ALJ found that the work to abate the Department of Public Health and Department of Building Inspection Notices of Violation was done within a reasonable time after the landlord received notice of the lead paint dust, mold, and paint condition problems. On appeal, the tenant argues that the landlord first had notice of the decreased housing services since December 2016, that he did not prevent the landlord from completing earlier work or deny access to the unit, and that the work was not done in a reasonable time. The tenant also raises a new claim regarding mold.

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

I. 3220 – 23rd Street #A

AT170114

The tenants' petition for decreased housing services was granted in part and denied in part. The landlords were found liable to the tenants in the amount of \$2,947.50 for loss of use of the deck. The ALJ also found that the tenants failed to meet their burden of proving that bike room access was a housing service, and that the tenants failed to prove that any of the changes in the terms of the tenancy or changes in the configuration or conditions of the restored unit constituted a substantial decrease in housing services. The tenants appeal, arguing that tenant Vanderkindren's chronic conditions and disability affected her ability to file the petition in a timely manner; that eviction from the bike parking room was not addressed; that there was a reduction in number of rooms which caused a loss in the right to a potential third and fourth roommate and reduced the value of the unit; and that the loss of use of the bathtub and loss of air quality and ventilation were not considered.

MSF: To accept the appeal on the grounds that losing a room is a decrease in services and that loss of the use of the bike room was a decrease in services.
(Mosbrucker/Crow: 2-3; Abe, Dandillaya, Gruber dissenting)

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

J. 1452 Sutter Street #1

AL170113

The tenant's petition for decreased housing services was granted. The landlord was found liable to the tenant in the amount of \$100.00 for the combined loss of three working phone lines. On appeal, the landlord argues that she should not be liable for a decreased housing service and a rent reduction for the lack of working telephone lines because the

request to repair the telephone lines was made by an occupant whom the landlord considers a subtenant, and not the tenant petitioner.

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

IV. Remarks from the Public (cont.)

A. Naomi Vanderkindren, one of the tenants at 2230 23rd Street #A (AT170114), told the Board she was disappointed to hear the denial of her appeal, as the second bedroom was a valuable resource as a guest room and for possible expansion of family, and because she and tenant Forbyn often sleep separately.

B. Eli Forbyn, the other tenant at 2230 – 23rd Street #A (AT170114) stated that if removal of a room with a closet and a door from the apartment doesn't constitute a decrease in services, then he did not know what does. He said that the Board was in error and that was shameful.

C. Bernadette Funk, the master tenant at 1020 Leavenworth Street (AL170111), told the Board that there were mistakes made in the subtenant's presentation at hearing. Ms. Funk said she could not get the paperwork showing that her son did not live in the unit for four years. She stated that she relied on the fact that the subtenant felt that she was sharing the unit with two of them for about a year after she began living there. Ms. Funk said that the last half of the last year that the subtenant was living in the unit, the subtenant begged her to stay and refused to leave. The master tenant said that since the subtenant forced the master tenant to let her live there, then master tenant should not owe the subtenant the money.

VI. Communications

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

- A. A memo from the Office of the Mayor regarding the Commissioners Luncheon.
- B. A copy of the Rules and Regulations effective January 1, 2018.
- C. New forms relating to the new owner move-in legislation effective January 1, 2018, including the Statement of Occupancy, Change of Address Form, and Notice of Incomplete Filing.
- D. Workload statistics for the month of November 2017.
- E. Articles from the S.F. Examiner, KQED News, SFGate, BeyondChron, SF Weekly, CNBC, and Slate.

VII. Director's Report

Executive Director Collins reported to the Board that the agency database and computers update is largely complete in light of the significant changes to the owner move-in

eviction law. He announced that Dorothy Chou Proudfoot has been hired as a new ALJ and will begin on February 12. He also announced that the office has received three owner move-in eviction notices under the new law, having been served on or after January 1, 2018. He informed the Commissioners that the proposed budget will be presented at the February Board meeting. He reminded the Board that all City departments received guidance that no departments should increase the number of positions in the next fiscal year, but that the department would propose to keep the two positions that were originally budgeted as limited-term. Executive Director Collins told the Board that staff would hold two upcoming outreach events in collaboration with the SF Public Library at the North Beach branch- one on January 20 called Understanding the Rent Ordinance for tenants, and a similar event on January 27 for landlords.

VIII. Old Business

A. Amendments to the Ordinance and Regulations regarding owner move-in evictions

Deputy Director Varner informed the Commissioners that the new forms, including the Statements of Occupancy and Change of Address forms are available on the website, but the Statements of Occupancy have been reformatted from what is in the Commissioners' folders.

IX. Calendar Items

February 13, 2018
8 appeal considerations

Old Business
Amendments to the Ordinance and Regulations regarding owner move-in evictions

X. Adjournment

President Gruber adjourned the meeting at 7:25 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.