



London N. Breed  
*Mayor*

Robert A. Collins  
*Executive Director*

DAVID GRUBER  
*PRESIDENT*

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

DAVE CROW  
SHOBA DANDILLAYA  
RICHARD HUNG  
REESE AARON ISBELL  
ASHLEY KLEIN  
CATHY MOSBRUCKER  
KENT QIAN  
ARTHUR TOM  
DAVID WASSERMAN

Tuesday, January 26, 2021  
at 6:00 p.m.

Remote Meeting via video and videoconferencing  
<https://bit.ly/3bDGA0u>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 146 116 7969

On February 25, 2020, Mayor London Breed declared a state of emergency in regards to COVID-19. Thereafter, Governor Newsom issued a statewide order for all residents to shelter-in-place, and numerous orders of the county health officer and supplemental orders and directives to slow and reduce the spread of COVID-19. Due to these declarations, orders, and proclamations, the Rent Board Commission’s March 17, 2020 and April 14, 2020 meetings were cancelled.

In three memorandums, the Mayor and City Attorney detailed emergency orders suspending select laws applicable to boards, commissions, and other policy bodies. On May 6, 2020, the Rent Board Commission was authorized to hold its May 12, 2020 regular meeting during the shelter-in-place remotely. Subsequently, per Mayoral and City Attorney guidance, boards and commissions are allowed to meet without first obtaining Mayoral permission, so long as the meetings are held remotely. Therefore, the Rent Board Commission meetings will be held via videoconferencing and will allow for remote public comment until further notice.

The Commission strongly encourages interested parties to submit their comments in writing, by 12:00 noon on January 26, 2021 to [rentboard@sfgov.org](mailto:rentboard@sfgov.org). The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3bDGA0u>. The public comment call in instructions are being made available on the Rent Board’s website at <https://sfrb.org>.

Please visit the Rent Board’s website for ongoing updates during the COVID-19 emergency.

I. Call to Order

President Gruber called the meeting to order at 6:07 p.m.

II. Roll Call

Commissioners Present: Crow; Gruber; Hung; Isbell; Klein; Mosbrucker; Qian; Tom; Wasserman.

Printed on 100% post-consumer recycled paper

Commissioners Not Present: Dandillaya.

Staff Present: Brandon; Collins; Koomas; Pagoulatos; Varner.

III. Approval of the Minutes

MSC: To approve the minutes of December 8, 2020.  
(Wasserman/Qian: 5-0)

IV. Remarks from the Public

A. Chelsea Rice, the subtenant at 1406 - 33<sup>rd</sup> Avenue (AT200068) said that it is not the master tenant that is appealing the decision but rather that she, the subtenant, is appealing to consider an additional overpayment amount. Ms. Rice said that the master tenant stated that she had a 2-year lease with the landlord, but the master tenant now submits only a 1-year lease. The subtenant said that the master tenant has a pattern of false testimony and stated that she was caught off guard by the subtenant's petition filing, but in emails, the subtenant had requested written verification of the master tenant's rent amount and informed the master tenant of her rights under the Rent Ordinance. Ms. Rice also stated that the master tenant claimed she felt physically unsafe while they lived together and therefore spent less time at the apartment in the final months, which is not accurate and not supported by evidence.

B. Elizabeth Perla, the master tenant at 3305 22<sup>nd</sup> Street (AL200067), told the Board that the whole time the subtenant lived in the unit, she never asked how much the rent was, and that it was a great deal with 6 rooms for 2 people and kitchen supplies provided. Ms. Perla said that the subtenant got a lawyer involved when there was talk of a buyout, and said that at no time during the subtenant's occupancy was there another roommate in the unit, just a houseguest friend who stayed in her room. The Board's decision that the rent should be split is arbitrary and unfair, she said, and she should get credit for maintaining the large place.

V. Consideration of Appeals

A. 525 Page Street

AT200063

The landlords' petition for an unlimited rent increase under the Costa-Hawkins Rental Housing Act and/or pursuant to Rules and Regulations Section 1.21 was granted. The ALJ determined that at the time the rent increase notice was served on May 29, 2020, original occupant Eugene Befford no longer permanently resided in the subject unit and Constance M. Davis was a subtenant who did not reside in the unit prior to January 1, 1996, and therefore the landlords' rent increase to \$2,400.00 was authorized by Civil Code Section 1954.53(d)(2) of Costa-Hawkins. Subtenant Davis appealed, contending that neither she nor respondent Jeffrey Dillon received notice of hearing, and submitted a Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. Should the tenants again fail to appear, absent extraordinary circumstances, no new hearings will be scheduled.  
(Mosbrucker/Wasserman: 5-0)

B. 3305 22<sup>nd</sup> Street

AL200067

The subtenant's petition alleging a disproportional share of rent was granted. The ALJ found that the subtenant petitioner's proportional share of the total rent was \$594.14 from July 1, 2016 through June 30, 2018 and \$569.29 from July 1, 2018 to May 31, 2020, and determined that the master tenant was liable to the subtenant for rent overpayments in the amount of \$9,576.65. The master tenant appeals, contending that she misunderstood the hearing procedures and that is why she did not appear at hearing; that the ALJ did not consider that she managed the furnished unit; that the subtenant paid rent in the amount of \$1,050.00 for two months rather than 7 months; and that due to the COVID-19 pandemic, the overpayment causes her a financial hardship.

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

C. 1406 33<sup>rd</sup> Avenue

AT200068

The subtenant's petition alleging a disproportional share of rent was granted. The ALJ found that the total rent paid for the unit was \$3,200.00; that the subtenant petitioner's proportional share of the total rent was \$1,520.00 from January 18, 2020 through June 30, 2020; and that the master tenant was liable to the subtenant for rent overpayments in the amount of \$1,494.55. The subtenant appeals, arguing that the master tenant provided no evidence of the total rent paid to the owner, and that, based on new evidence, the total rent paid to the owner is \$3,000.00 instead of \$3,200.00, and therefore, the overpayment should be higher.

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

D. 1483 Newcomb Avenue #A

AL200064

The tenants' petition alleging an unlawful rent increase was granted. The ALJ found that the landlords did not meet their burden of proving that the lower unit is no longer a separate dwelling unit intended or available for residential use and that the subject upstairs unit is exempt as a single-family dwelling separately alienable from the title to any other dwelling unit under Civil Code Section 1954.52(a)(3)(A) and therefore the November 5, 2019 rent increase to \$3,570.00 was unlawful. The landlords were found liable to the tenants for rent overpayments in the amount of \$11,700.00, for the period from March 17, 2017 to May 31, 2020. The landlords appealed, arguing that the tenants' initial base rent was \$1,850.00, not \$1,800.00, and that the November 5, 2019 rent increase was lawful because the subject unit was no longer subject to the Rent Ordinance after the lower unit was removed in 2019. At the July 14, 2020 meeting, the Board voted to accept the appeal and remand the case to the ALJ for a new hearing regarding removal of the second unit only. In the remand decision, the ALJ determined that the landlords did not prove that they received the required conditional use authorization to permanently remove the lower unit, or that they were exempt from the requirement, and again granted the tenants' petition for unlawful rent increase. On appeal of the remand decision, the landlords argue that they established that the Department of Building

Inspection determined that there was no path to legalization of the lower unit based on the information provided in the permit application, and that this evidence is sufficient to prove that DBI knew that the work approved in the permit would result in the removal of a dwelling unit at the time it was approved, and therefore, DBI's approval of the permit proves that no conditional use authorization was required.

Commissioner Klein recused herself from the consideration of this appeal because her law firm represented the landlord at the first hearing in this matter.

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

E. 1050 Chestnut Street

AL200066

The landlord's petition for a capital improvement passthrough to 1 of 3 units was denied. The ALJ determined that the replacement of windows and doors in unit #2 was performed on an as-needed basis, which is considered an individual unit improvement, not a common area improvement, and therefore the cost of the work was not certified for passthrough to unit #1. The landlords appeal, arguing that the other windows in other units had previously been replaced; the cracked glass in the unit #2 window was a safety hazard; and that a leak might occur in unit #1 if the window was not replaced in unit #2.

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

F. 1133 Fell Street

AL200062

The landlord's petition seeking a 7% rent increase due to increased operating and maintenance (O&M) expenses to the tenants in 4 of 12 units was granted. The ALJ found that the landlord had met its burden of proving that at the time of the purchase of the property, the landlord had reasonably relied on its ability to pass through the costs of increased debt service and property taxes through an O&M rent increase. The tenant in one unit appealed, arguing that the landlord did not reasonably rely on its ability to pass through these costs at the time of its purchase of the property. At the January 28, 2020 meeting, the board voted to accept the appeal and remand the case to the ALJ to consider the case under the newly adopted Rules and Regulations Section 6.10(e)(4). In the remand decision, the ALJ found that the landlord did not meet its burden under Rules and Regulations Section 6.10(e)(4) of proving that it reasonably relied on its ability to pass through the costs of increased debt service and property taxes through an O&M rent increase at the time of purchase of the property because such reliance was not informed by actual knowledge and receipt of the prior owner's O&M expenses in Year 1. On appeal of the remand decision, the landlord argues that it reasonably relied on its ability to pass through the costs of increased debt service and property taxes through an O&M rent increase because the purchase agreement for the property included a contract addendum that obligated the seller to supply expense documentation to support an O&M petition; and that the law regarding reasonable reliance should not be retroactively applied.

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

IV. Remarks From the Public (continued)

A. Chelsea Rice, the subtenant at 1406 - 33<sup>rd</sup> Avenue (AT200068) said that she thinks that the master tenant submitted a false lease because in written statements, the master tenant said she had a two-year lease with LL, and the submitted lease is for one year. Ms. Rice said that she believes that the master tenant submitted a manufactured lease; that the signatures on lease are inconsistent and manufactured, and that the master tenant probably had a lower rent than the downstairs unit, and that she doesn't understand why the discrepancy exists.

VI. Communications

- A. Articles from Mission Local, SF Gate, and SF Chronicle.
- B. Monthly workload statistics for November 2020.
- C. Fact sheet from the Ethics Commission regarding behested payments.

VII. Director's Report

A. Rent Board Operations Update During COVID-19 Health Emergency

Executive Director Collins told the Board that operations at the department remain generally the same as in the previous report. In regards to legislation, Executive Director Collins reported that Board of Supervisors' file number 21005, an emergency ordinance to temporarily restrict landlords from evicting tenants during the COVID-19 pandemic and from imposing late fees, was introduced because state law AB 3088 was set to expire. He said that as of Monday, January 25, it appeared as though AB 3088 replacement, and SB 3091 would be finalized. Executive Director Collins also explained that the Board was provided a new version of the Ordinance, as it was annotated because the Superior Court struck some provisions in the Buyout Ordinance. Executive Director Collins also told the Board that the previous week, the new housing inventory legislation became effective, so again the Commissioners would receive an updated version of the Ordinance next month.

VIII. Old Business

A. Fiscal Year 2021-2022 Departmental Budget

Executive Director Collins discussed the proposed departmental budget for Fiscal Year 2021-2022 and told the Board that it is due to the Mayor's Office on February 22, 2021, and will be discussed again at the February 16, 2021 commission meeting. He explained that there are three main issues as to why there would be additions to next fiscal year's budget. The first item was that certain portions of the Rent Ordinance regarding exempt properties built after June 13, 1979 were brought under the Rent Board's jurisdiction as of January 2020, and a budget had last been submitted to implement those changes. He explained that the department was going to add one

administrative analyst position in the first year, and then were going to add a counselor, and an IT position. He said that they exchanged some positions, moved some positions, and agreed to some attrition savings because the City was in a hiring freeze. He explained that the rental housing inventory is a second major issue, and lastly, the Tax Collector was previously assessing the Rent Board fee, but this coming year they will be no longer be billing that fee; however, salary costs are not as great. Executive Director Collins said that the department had a budget of about \$9.8M, but cooperated with the Mayor's office on the hiring freeze so is on a reduced budget; the Mayor did not consider the COLAs that unions had negotiated, and that the budget numbers from last year assumed that the unions would give those back. Executive Director Collins said that in the Fiscal Year 21-22 budget, the Rent Board had originally requested a principal business analyst, principal clerk, and a legal assistant, for about \$800,000.00 In regards to the housing inventory, he said, the best source of data is the Legislative and Budget Analyst's Report, and that the high estimate for contracts and work orders was \$2.3M, adding potentially 14 or more positions; the department will come in conservatively, and attempt to see if the positions are not needed. He said that the Rent Board will have about 230,000 units to register and does not want to be caught short-handed, and explained that temporary staff can perform the initial registration, and the system itself can retain the information; it would be an issue of whether people can access the proposed portal automatically. He explained that the new portal could cost about \$800,000.00 or \$900,000.00. Executive Director Collins told the Board that the department has received some good feedback from other rent control agencies in other jurisdictions, such as Alameda and Los Angeles, as to best practices. He said that actual numbers and figures are being prepared, which would be properly sized for going live on July 1, 2022, to include 1-2 administrative analysts or management assistants, and several clerks; but that most of the registration will be taken care of by technology. He explained that another large part of the budget would be for mailing, as the department will have to mail out the Rent Board Fee bills, and also will probably want to mail a letter or form with instructions for how to file online to every landlord who is subject to this requirement, as well as perform targeted and wide-ranging outreach. He explained that landlords may live out of state or own just 1-2 properties, or may be elderly. In regards to account vendors, he explained, the Los Angeles Rent Board learned that a significant portion of the population has challenges with registering. One issue, he noted, is that phase one, beginning on July 1, 2022, requires registration of larger properties, then phase two, beginning on March 1, 2023, will require registration of smaller properties, so some employees may be temporary. He explained that this is a participatory budget process. Commissioner Isbell requested a preliminary budget be provided to the commissioners in advance of the February 16 meeting.

B. Proposed Amendments to Rules and Regulations Section 2.10 – Election of Board Officers

Commissioner Isbell opened the discussion, explaining that the proposed amendments to Rules and Regulations Section 2.10 arose from the racial equity work in which the Board is now engaging. He told the Board that in the department's Racial Equity Action Plan (REAP) there is a goal regarding maintaining a diverse and equitable board and commission, and that action item 7.1.1. is to review and revise bylaws and rules of order and to include inclusive language and procedure in line with the departmental REAP.

Commissioner Isbell stated that the Rent Board's Rules regarding board governance are not consistent with current Board behavior and are not consistent with how new members currently begin their Board tenure, nor are the Board's Rules clear regarding the role of Board alternates and what their governance capabilities are. Prior to the December 8, 2020 meeting, Senior ALJ Koomas drafted a memo to the Board outlining the potential changes the Board could take regarding Rules Section 2.10, which would include permitting board officers to be reelected for fixed, successive terms; permitting Board Officers to be reelected for indefinite terms; and establishing an annual date for the election/reelection of Board Officers. Commissioner Wasserman said that he understood the issue and the options presented by SALJ Koomas. He said that he has been on the Board for almost 6 years, and that he has been involved with the Board's work for 26 years due to his law practice, and doesn't think these proposed changes offend the equity goal. Commissioner Wasserman agreed that the Board's current practice is not consistent with the term limits that are set in the Rules and Regulations now. In relation to Board governance, Commissioner Isbell stated that new members may want to take leadership roles, and explained that the Rules do not currently specify a time of year for Board elections and there has been no regular election in practice, and that this change would allow leadership to be more inclusive. Commissioner Mosbrucker said that she would like the term limit eliminated but for the election to be held on an annual basis. She said that she agreed with Commissioner Isbell, that the Rules should be amended or the current Rule followed. At the conclusion of the discussion, the Board made and voted upon the following motion:

MSC: To move out for public hearing the proposed amendments to Rules and Regulations Section 2.10 to include sections (a) and (c) on SALJ Koomas' memo.  
(Wasserman/Mosbrucker: 5-0)

C. Proposed Amendments to Rules and Regulations Sections 1.10 and 2.11 Regarding Board Alternates

The commissioners continued the discussion regarding proposed amendments to the Rules and Regulations Sections 1.10 and 2.11 in an effort to create consistency and clarity regarding the roles of Board alternates. Commissioner Isbell stated that two alternates had worked on the Commissioners' Resolution on Racial Equity in December, and requested that there be procedural continuity regarding resolutions. At the conclusion of the discussion, the Commissioners made and voted upon the following motion:

MSC: To move out for public hearing proposed amendments to Rules and Regulations Section 2.11 to clarify that alternate Board members may participate in discussions and deliberations, and may preside over appeal hearings, and vote for Board resolutions and other Board governance, and will only be allowed to vote on appeal decisions and regulation changes when the member for whom the alternate serves as alternate is not present or has been recused.  
(Qian/Wasserman: 5-0)

In regards to proposed amendments to Rules and Regulations Section 1.10, the Commissioners had previously inquired as to whether alternate members could be elected as Board Officers, or could vote in the election of Board Officers. Senior ALJ Koomas explained that the Ordinance requires Board Officers to be regular members, but that Rule 2.10 was amended in 1989 to specifically allow Board alternates to vote in the election of Board Officers. However, he states that Rule 1.10 contains language that is inconsistent with Rule 2.10, so the proposed amendment to Rule 1.10 is intended to clarify that Board alternates may participate in the election of Board Officers.

MSC: To move out for public hearing to accept the language of Rules and Regulations Section 1.10 to set out in SALJ Koomas' memo eliminating the phrase "except for the election of officers."  
(Mosbrucker/Wasserman: 5-0)

#### D. Racial Equity Action Plan and Ongoing Board Racial Equity Work

Deputy Director and Board Secretary Varner, who is also the department's racial equity leader, provided some updates to the Board about the department's Racial Equity Action Plan. She explained that Phase I of the Plan, which takes an internal focus on the department, was submitted according to mandate on December 31, 2020, and is now posted on the Rent Board's website. She explained that shortly after the Board's last meeting of 2020 on December 8, 2020, staff from the Office of Racial Equity informed the departmental racial equity leaders that the Plan template had been updated to include new action items and indicators; two of the new items dealt with specific Commission-related action items. She said that one urged the Board to author and pass a resolution regarding a Ramaytush Ohlone Land Acknowledgment, and the other was regarding incorporation of newly-passed Proposition C, which allows undocumented people to sit on City boards and commissions, into the Board's work and/or bylaws. Commissioner Isbell agreed to take the lead to draft a Ramaytush Ohlone Land Acknowledgment and accompanying resolution, and to provide the draft to the Commissioners on or before the next Board meeting. Deputy Director Varner informed the Board that the first convening of racial equity leaders with Office of Racial Equity staff would be the following day, and so she would bring further information to the February 16, 2021 meeting.

### IX. New Business

#### A. Rental Housing Inventory Legislation Implementation

Executive Director Collins discussed the implementation of the new rental housing inventory legislation, which would take effect July 1, 2022. He explained that the full inventory process would need to be ready by March 2022 in order to be ready for the public to use on July 1, 2022. He explained that any procedures that need to be put into place would require public hearings, and clarified that Rules and Regulations may need to be crafted to explain anything in the legislation that remains unclear. Executive Director Collins asked the Commissioners to submit any changes that they see useful, and explained that SALJ Koomas prepared a What's New item for the website that summarizes the new legislation. Commissioner Mosbrucker said that this may get



tinkered with a lot from the Board of Supervisors and the system that the department sets up should be flexible and easily changed. Executive Director Collins said that the department is trying to work with a vendor that has modules but can still customize and react to any changes. Commissioner Crow had questions about how the inventory system may look so it is transparent and beneficial for tenants. Commissioners Wasserman and Isbell expressed concern about what outside landlord and tenant groups may want to contribute or see from the inventory portal, and Commissioner Isbell was concerned with guidance from the Mayor or Board of Supervisors, and Commissioner Wasserman expressed that the landlord community may have concerns with privacy issues. Executive Director Collins explained that this is an opportunity for the department to grow and re-think how it conducts business. He said that there would be three phases of the new system: the Rent Board Fee; the rental housing inventory phase one, where large owners would be required to register by July 1, 2022, & the housing inventory phase two where small property owners would be required to register by March 1, 2023, and then general online filings in phase three.

X. Calendar Items

February 16, 2021 – remote meeting via Webex Events

A. Consideration of Appeals

4 appeal considerations

B. Old Business

1. Fiscal Year 2021-2022 Departmental Budget
2. Rental Housing Inventory Legislation Implementation
3. Board Racial Equity Work

C. Public Hearing

- A. Proposed Amendments to Rules and Regulations Section 2.10 – Election of Board Officers and Proposed Amendments to Rules and Regulations Sections 1.10 and 2.11 Regarding Board Alternates

XI. Adjournment

President Gruber adjourned the meeting at 8:47 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.**