



London N. Breed
Mayor

Robert A. Collins
Executive Director

DAVID GRUBER
PRESIDENT

**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, February 16, 2021
at 6:00 p.m.

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

Public Comment Dial In Number: (415) 655-0001 / Access Code: 187 556 0126

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 February 16, 2021 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3oLUKzI>. 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 6:09 p.m.

II. Roll Call

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

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Commissioners Not Present: Dandillaya; Klein.

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

III. Approval of the Minutes

MSC: To approve the minutes of January 26, 2021, with Commissioner Isbell's changes.
(Wasserman/Qian: 5-0)

IV. Remarks from the Public

A. *(There were no remarks from the public at the first public comment period.)*

V. Consideration of Appeals

A. 2067 – 10th Avenue

AT210004

The tenant's petition alleging decreased housing services was dismissed due to her non-appearance at the hearing. The tenant appealed, and stated that she did not receive the notice of hearing because the post office did not deliver it and it was returned to sender; and filed the requisite Declaration of Non-Receipt of Notice of Hearing or Decision. At the August 11, 2020 meeting, the Board voted to accept the appeal and remand the case to the ALJ for a new hearing. In the remand decision, the ALJ found that the tenant failed to establish a substantial decrease in housing services based on the installation of security cameras at the property, and denied the petition. On appeal of the remand decision, the tenant argues that the landlord's installation of security cameras interfered with her right to quiet enjoyment of the unit; that she submitted documentation that a neighboring tenant has been surveilling her; and that the landlord did not submit evidence supporting his testimony.

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

B. 2849 Fillmore Street #1

AL210001

The tenants' petition alleging decreased housing services was granted. The ALJ found that the landlord was liable to the tenants for rent overpayments in the amount of \$900.00 for lack of heat from February 6, 2020 through June 23, 2020. The landlord appeals, contending that the existing furnace always functioned properly and heated the unit well; and that the tenants declined to use the existing furnace when given the choice between two heating systems.

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

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C. 748 Page Street #9

AL210005

The landlord's appeal was filed 1 day late because they did not receive the decision until the day the appeal was due, and then had to hire counsel to represent them.

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

The tenants' petition alleging decreased housing services was granted in part and denied in part. The ALJ found that the landlord was liable to the tenants for rent reductions in the amount of \$19,050.00 for: loss of adequate utility service from mid-December 2019 through mid-July 2020; for loss of use of one of the bathrooms due to mold and inadequate ventilation from February 10, 2020 to May 29, 2020; and for loss of quiet enjoyment and internet access from August 1, 2019 to March 23, 2020. The ALJ further found that the tenants did not sustain their burden of proving that a substantial decrease in housing services due to a mouse infestation. The landlord appeals, contending that the utility shutoffs were scheduled and infrequent; that the tenants' mold claim was not supported by evidence; and that any construction noise was caused by the performance of work that was properly permitted and timed to minimize any inconvenience to tenants.

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

D. 546 Madrid Street

AT210002

The tenant's petition alleging an unlawful rent increase was granted, and the tenant's claim alleging decreased housing services was denied. The ALJ found that the landlord was liable to the tenant for rent overpayments in the amount of \$80.00 for the periods of January 1-31, 2018, and March 1-31, 2019. The ALJ also found that the tenant failed to establish that the landlord substantially decreased housing services by overcharging the tenant for utilities. On appeal, the tenant argues that the interpreter provided by the Rent Board failed to accurately interpret at the hearing and therefore pertinent evidence was not conveyed to the ALJ; that the rent increases were invalid because the rent increase notices were improperly served and therefore the tenant is entitled to a rent overpayment of \$1,100.00; and that the landlord arbitrarily charged utilities.

MSC: To accept the appeal and remand the case to the ALJ to ascertain whether the rent increase notice was understandable to the tenant as well as other issues pertinent to this case.
(Wasserman/Gruber: 5-0)

IV. Remarks From the Public (continued)

A. Jackie Barshak, the tenant at 2067 – 10th Avenue (AT210004) told the Board her position was misstated by President Gruber and she feels that she needs some redress. She said that her appeal was based on the ALJ's indiscretion, and that President Gruber did not summarize the basis for her appeal, which is that there were many errors of fact and law in the decision. She said that she feels that none of the commissioners could have read her

appeal, due to one commissioner's quickly voting to deny. Ms. Barshak said that the landlord employed cameras to surveil her and she has had a reaction of PTSD and electromagnetic sensitivity symptoms, which were verified by her doctor who attended the hearing. She said that she did prove a decrease in services because she lost the quiet enjoyment of her home.

VI. Public Hearing

7:00 p.m. Proposed Amendments to Rules and Regulations Sections 1.10, 2.10 and 2.11 – Election of Board Officers and Clarification of Alternate Members' Roles

The Rent Board Commission proposed amendments to Rules and Regulations Sections 1.10, 2.10 and 2.11, which are intended to establish continuity and clarify roles and voting rights of commission members. Proposed amended Section 1.10 would clarify that Board alternates may participate in the election of Board Officers. Proposed amended Section 2.10 would allow board officers to be re-elected at the expiration of a one-year term, and would establish an annual election in which all members of the board could participate. Proposed amended Section 2.11 would allow alternate members to vote on board resolutions and other board governance, but clarify that alternate members may only vote on appeal decisions and changes to the regulations when the member for whom they alternate is unavailable.

President Gruber opened a public comment period for members of the public to speak specifically about proposed Rules and Regulations Sections 1.10, 2.10, and 2.11. Seeing that no member of the public wanted to speak during the public comment period, the public comment period was closed.

The Commissioners then had no discussion regarding the proposed amendments. Seeing that there was no discussion, the Commissioners made and voted upon the following motion:

MSC: To move to adopt Rules and Regulations Section 1.10, 2.10, 2.11 as drafted by staff.
(Wasserman/Gruber: 5-0)

VII. Communications

- A. Articles from SF Chronicle and CBS Local.
- B. Annual Report on Buyout Agreements.
- C. Copy of the Board of Supervisors' legislative file number 210053.
- D. Updated copy of the Rent Ordinance.
- E. Monthly workload statistics for December 2020.

VIII. Director's Report

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

Executive Director Collins provided the Board with the Annual Report on Buyout Agreements and explained that for 2020, the department received 333 buyout agreements, which filings were down only 9% from the prior year. Executive Director Collins told the Board that department operations remain unchanged since the last report. He informed the Commissioners about Board of Supervisors' file number 210141, an ordinance to limit residential evictions through June 30, 2021 except for those evictions based on nonpayment of rent or threats of violence or safety, which would replace the current Ordinance 216-20 that is effective through April 30, 2021, and would compliment existing state law.

IX. Old Business

A. Fiscal Years 2021-2023 Departmental Budget

Executive Director Collins began the Fiscal Years 2021-2023 budget by explaining that the Rent Board would have its most significant changes in 35-40 years. He said that in the past years, significant factors included soft-story seismic legislation, and extending eviction controls to new construction and sub rehab properties (the Haney legislation); the Haney legislation triggered a proposed budget that included 4 new positions. Additionally, he said, other budget changes included assessment and collection of the Rent Board fee. Executive Director Collins told the Board that the housing inventory legislation will be carried out in two major phases: the first phase will require owners of buildings that are 10 or more units to register their units with the Rent Board by July 1, 2022; the second phase will require owners of buildings that are 9 or fewer units to register their units with the Rent Board by March 1, 2023. According to a parcel analysis, he said, there are approximately 3,700 parcels that contain 10 or more units, and the Rent Board will see a significantly larger number of parcels in the second phase of the housing inventory rollout, and due to the implementation deadlines, the Rent Board's inventory system will have to go live significantly before July 1, 2022. Executive Director Collins told the Board that this coming year the department is also tasked with conducting both the assessment and collection of the Rent Board fee. From a broad overview, he said, the projected fiscal year 21-22 budget is \$13.35M, which is a nearly \$4M increase from this fiscal year; the following year there will be a smaller increase to cover COLAs and annualization of positions for a total of \$14.05M. Executive Director Collins explained that the strategy is to increase the capacity of the agency for the near future, which would include creating a housing inventory and fee unit. He said that in the current year, the department exchanged an ALJ position for an IT position that would be a chief information officer as the office has to move away from being paper-based; the department is now in the process of hiring that person. He said that in the second year, the department will add an additional IT position for a total of two, in addition to vendors to increase IT capacity. Changes include creating an IT unit, as well as a finance and operations unit, which will assist with hiring, contracting and finance, and that this change would allow the department to attend to the increased call volume and outreach to communicate with the members of the public who will need to register their units. Ultimately, Executive Director Collins said, the bulk of the inventory would be done through a registration portal; thereafter, the department would add online filing through the same portal. He said that the department is attempting to secure

a vendor who has wide experience in other with other rent boards, and has sought advice from other rent boards regarding this vendor and that the department is hopeful that costs will come in well under the budgeted amount for professional and specialized services. Executive Director Collins also explained a proposed collaboration with 311 to answer Rent Board fee calls, which will include adding two new positions, and then a third position the second year.

Executive Director Collins also told the Board that there is a newly formed organization of statewide Rent Board employees that the Rent Board would like to join, and was asking for the Board's vote, approval and support to join this newly formed organization. He said that there are new rent boards across the state, and more laws across different rent boards are based on replicating ideas from different jurisdictions. For example, he said SF passed a buyout ordinance, so many other cities did as well, while SF is also borrowing from other cities.

After Executive Director Collins' presentation, the Commissioners discussed the new issues, particularly in regards to specific budget numbers and the increase in staff.

At the conclusion of the discussion, the Board made and voted upon the following motion:

MSC: To approve the proposed departmental budget for Fiscal Years 2021-2022 and 2022-2023, and to request that staff return to the Board for approval before joining the proposed organization.
(Mosbrucker/Wasserman: 8-0)

B. Rental Housing Inventory Legislation Implementation

The Rental Housing Inventory Legislation was discussed during the Fiscal Year 2021-2022 departmental budget item. The Board agreed to table the item and to re-agendize the item as needed.

C. Board Racial Equity Work – Proposed Resolution: Ramaytush Ohlone Land Acknowledgment

Commissioner Isbell lead the discussion regarding the proposed Ramaytush Ohlone Land Acknowledgement. He explained that the language was formulated utilizing the template of the SF Human Rights Commission (HRC), and the Rent Board Commission would be joining the SF HRC and the Board of Supervisors in their resolutions.

In addition, Commissioner Isbell said, Action Item 7.1.7 of the Rent Board's Racial Equity Action Plan is to incorporate Proposition C 2020 passage, which removes the requirement of US citizenship and voter registration for individuals to serve on City boards, commissions, and advisory bodies. Commissioner Isbell told the Board that he reviewed the Rent Board's Regulations and other materials and found nothing explicitly pertaining to exclusion of non-US citizens or requiring voter registration, so there may be no new steps to take to incorporate Racial Equity Action Plan Action Item 7.1.7.

President Gruber posed questions about future steps after the passage of a Ramaytush Ohlone Land Acknowledgement. The Commissioners agreed to continue consideration of the item to the March 16, 2021 board meeting.

Deputy Director Varner, as the department's Racial Equity Leader, informed the Board that the Office of Racial Equity and Department of Human Resources are collaboratively reformulating racial equity and implicit bias trainings, which will reportedly be available after July 1, 2021. Deputy Director Varner and her Racial Equity teammate, counseling unit supervisor Jennifer Rakowski, have indicated that the commissioners may benefit more from this new training, and would look into commissioner participation around July 1.

X. New Business

(There was no New Business.)

XI. Calendar Items

March 16, 2021 – remote meeting via Webex Events

Deputy Director Varner reminded the Board that their Form 700s and Sunshine and Ethics training declarations are due April 1, 2021.

A. Consideration of Appeals

5 appeal considerations

B. Old Business

1. Board Racial Equity Work – Proposed Resolution: Ramaytush Ohlone Land Acknowledgment

XII. Adjournment

President Gruber adjourned the meeting at 8:46 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.