



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 25, 2020
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; Gruber; Hung; Isbell; Mosbrucker; Qian; Tom; Wasserman.

Staff Present: Brandon; Collins; Koomas; Varner.

Commissioners Not Present: Dandillaya; Klein.

Commissioners Appearing on the Record Late: Hung, 6:07 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of January 28, 2020.
(Wasserman/Qian: 4-0)

IV. Remarks from the Public

A. Joe Ansel told the Board that he and his girlfriend moved into a set of apartments in 1977, and bought them in 1979. He argued that it is unfair that a tenant can have two permanent places of residence but the landlord cannot. He said that he listened to Commissioner Mosbrucker's discussion about how tenants need to be able to take care of their families; and in 1996 his father was going to die, and he was a landlord in SF and a commercial tenant in Monterey at the same time. He said that they finally were forced to raise the tenants' rents to market rate by the Rent Board because tenants rent for low rates and then leave the city and sublet. He said that he spent nearly \$9,000.00 on attorneys to get the Rent Board to allow him to raise the rent.

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B. Albert Dong said that he is a landlord; his family own a building and he has a good relationship with all his tenants. He said that he has one tenant who has been there over 20 years paying \$1,560.00; he raised his rent once; they have done a retrofit and have never done any passthroughs. He said that he's now the only tenant on the lease; he's had a lot of revolving roommates; people show up in front of the building with suitcases; now he's dating a celebrity in LA; and even his Facebook page says he's living in Venice Beach. Mr. Dong said that he doesn't know how much other people who are in and out of the apartment are paying, but the tenant is doing well and he feels taken advantage of. He said that he knows he shouldn't talk to the roommates because he doesn't want to establish a relationship with them; he just wants to know who is living in his building. Mr. Dong said he is not against rent control, but is bewildered by the law.

C. Dean Gridley, the owner and manager of a 45-unit apartment building said that tenants vacate without telling him and then illegally sublet, and make money off the unit. Mr. Gridley said that there is no way to know who's there; people are doing Airbnb; he can tell by lockboxes on the front gate. He said that the Office of Short-Term Rentals caught one tenant who was making tons of money. He asked how "living there" is defined when one is not able to determine whether someone is an occupant or has vacated; and that there might as well not be any rules if the criteria can't be defined, and subletting is ripe for abuse. He encouraged the Board to figure out a way to validate residency.

D. Christina Roberts, the master tenant at 623 Capp Street (AL200005), said that when she moved in, her family friends owned the building and she had been commuting 35 miles a day from the East Bay to her Catholic school teaching job. She said that her landlord lives in Mexico, and they originally agreed that she'd take care of the apartment; she was grateful to be able to live 3 miles away from work. Ms. Roberts said she received no direction regarding the meaning of "taking care of the place," but that she and her father painted the unit. She said that she didn't even know what being a master tenant was; she just completely operated out of a dedication to her landlord to just take care of the place; she doesn't make a lot of money but tries to do everything to keep the flat a good, livable space. She said that she takes more of the rent, but she didn't know she wasn't supposed to, because she supplies everything a renter would need; she felt that was her obligation and did it out of no malice.

E. Andrew Wiegel, the attorney for the landlord at 3435 Cesar Chavez Street #206, #327, #335 & Tower (AL190216), said that there was a building permit issued in 1978 to create new housing; that there was no housing there before; that the housing was created in 1978 and 1979; and that a Certificate of Final Occupancy and Completion (CFCO) was first issued under a permit to create new housing in 1979. He told the Board that 20 years ago, an Administrative Law Judge (ALJ) decided that the property was not subject to rent control because units were newly created and not covered under Ordinance, which was upheld on appeal. He stated that they are arguing the same thing again, and this time the law is being changed. Mr. Wiegel said that the proposed change to Regulations Section 1.18 demonstrates the distinction between an unwritten policy and a Regulation which is law and given dignity because it goes through a process of review and consideration before enactment.

F. Marvin Frankle said that he's been in this industry for 18 years and manages over 100 units. He said that in one case, the tenant was in Union City and the owner was in Hawai'i; 8

of 14 units were taking advantage of the hands-off landlord: several units were being rented out by the tenants on various internet sites; and one was a Stanford professor who used the unit as a pied-a-terre. Mr. Frankle said that the onus is put on the landlord to prove everything; but if the landlord is hands-off, the tenants will take advantage, including one who was a lawyer marrying his master tenant wife so they could come back to the discounted rents in the future.

G. Khaled Sayed, one of the tenants at 3435 Cesar Chavez Street #206, #327, #335 & Tower (AL190216) said that he was told that when they signed the lease that the building was rent controlled, but when rents in the city started increasing, the landlords started increasing the rent beyond rent-controlled limits. He said that throughout this case the tenants have won because there was residential use before the CFCO was issued, and that the landlord's briefing is 40 pages of nonsense.

H. Dennis Zaragoza, the attorney for the tenants at 3435 Cesar Chavez Street #206, #327, #335 & Tower (AL190216), said that the tenants have shown there was substantial evidence to support the ALJ's 2017 decision; and that each decision admits to prior occupancy before the CFCO was issued. He said that the test in Da Vinci was whether there was residential use before the CFCO was issued; where there was, the new construction exception did not apply. Mr. Zaragoza said that the Regulations Section 1.17(g) live/work exemption was strictly construed and that appeal was upheld. He said that there is not a question of collateral estoppel, and that the decision was correct and the Board should deny the landlord's appeal.

I. Piper Wheeler, a Tenants Union counselor for the past 3 years, asked the Board not to enact the permanent place of residency Rule change. Wheeler said she has spoken to many tenants who have been subject to landlord harassment because the landlord heard a rumor that the tenant wasn't there, including landlords pointing video cameras at the door or asking about the tenant's relationship status. She said that the new rule would harm tenants, as it is an expansion of the Costa-Hawkins Rental Housing Act, and SF should not be expanding Costa-Hawkins when there's an affordability and eviction crisis. She said that landlords have talked about issues like Airbnb and master tenants gouging subtenants, but this new law doesn't solve those problems.

J. Dorothy Chao said that she is a landlord and is victimized by her tenants, and she doesn't understand why she called the master tenant for several years and he didn't answer the phone; he was never there; when there was a building issue she would never be able to communicate with him. The landlord said that there was a mold issue even though she told the tenant to open the window; she fixed it a few times even though the tenant caused the mold; she spent \$8,000.00 for complete mold renovation because the law protects the tenant even though the landlord had to take care of the tenant. She said once the downstairs business had a leak in their unit, but the tenants never answered the phone and didn't answer the door.. She said she hopes that the Board can give her fairness.

K. Brad Koch, one of the landlords at 3435 Cesar Chavez Street #206, #327, #335 & Tower (AL190216) says that his family and others have owned the building for over 20 years and they've won at the Rent Board twice, so they were managing the property as not rent controlled. He said that his landlord father now has Alzheimer's; one owner is dead; another

is over 80 years old. Mr. Koch said that this dispute has gone on for over 3 years; he is just trying to protect his building, as it is a wonderful artist community. He said that the court almost sided with them and kicked it back to the Rent Board; he's just trying to play by the rules. He said that they are going to keep fighting for their rights, and that they have never evicted a tenant, and they keep rents low. He said that changing the rules has made it very difficult.

L. Brad Hirn of the Housing Rights Committee of SF told the Board that he was speaking in opposition to the proposed changes to the permanent place of residence rules, and that this is the worst possible time for an expansion of Costa-Hawkins. He said that he's been personally involved with a long-term tenant whose large owner who brought a Costa-Hawkins rent increase, and the tenants prevailed. He said that it's ludicrous to expand Costa-Hawkins; dealing with Airbnb has nothing to do with this issue; this is overreach and won't solve certain problems. Mr. Hirn said that there is some problematic language that says a tenant would have to demonstrate the presence of one element or may not support a claim of residence. He said that this shouldn't even be a discussion in the first place and asked why state law is being expanded.

M. Amina Rubio, a volunteer researcher, said she has worked with many tenants, said that one issue is if you have a family who is going through a divorce and the mother hasn't quite left the residence, this gives the landlord the ability to point fingers and say she isn't a permanent resident. She said that tenants should have the right to have two residences and not have security cameras used against them in court; landlords should instead create a paper trail.

N. Leticia Arce, a housing lead organizer from Causa Justa::Just Cause and tenant in a rent controlled building in SF, said that Commissioner Wasserman's proposal will significantly change the rules to make it easier for landlords to claim tenants are not entitled to rent control under Costa-Hawkins, and they do not support changes in an already hostile housing environment and that this not a time to expand. She said that the process is long, stressful and taxing. She said that in one case where seniors had gone through divorce, one was not on the lease, and the property address was not on the driver's license, but the tenant had other evidence to show why she used her daughter's address. Ms. Arce said that these changes will lead to more surveillance of tenants, like cameras installed in front of doors. She said that tenants are feeling a lot of stressors, especially seniors who have lower rent. She asked that no change be made to any language in the current Regulations.

O. Elvis Mazariegos said that he has lived in his unit for 20 years, and that now he has a problem with the new landlord, one that he did not have with the previous landlord; about 6 months ago the new landlord tried to raise the rent from \$850.00 to \$3,500.00. He said that it has been very stressful, and they keep getting harassed and have to pay the rent increase by May 1.

P. Dilcia Sanchez said that she is Elvis Mazariegos' wife. She said that it has been very stressful with a lot of harassment from the new owner to raise the rent a very exaggerated amount. She said that it has been unjust and should not be happening, and that it's not just them, but others too.

Q. Jason Matlof, a small property manager, said that he is in favor of the proposed amendments to establish the same rules for landlords and tenants, so that unscrupulous tenants cannot manipulate the Rent Board. He said that this is the most fair and effective way to put thousands of housing units back on the market. He said that he has a large amount of evidence to show that tenants are not in their units and are taking homeowners exemptions elsewhere; but that he's been advised that he's going to lose because of Rent Board rules. He argued that housing rights advocates paint landlords as terrible by using cameras, but that's how they can protect themselves; and that 3 of 20 units he manages are "institutionally vacant," which is exacerbating the housing crisis. He said that units could be put back on the market and to increase supply by 3,000 units a year, which will have a huge impact.

R. Theresa Flandrich told the Board that she works at Senior and Disability Action and is opposed to the proposed Rules changes. She said that she worked really hard on the short-term rental regulations and that she is an advocate for filling each and every vacant unit that people from outside have bought and only use once a year. But, she said, she doesn't see this amendment changing anything that she's heard during public comment.

S. Lisa Ellsworth, one of the tenants at 3435 Cesar Chavez Street #206, #327, #335 & Tower (AL190216) she that she has lived and worked out of the building as an independent curator. She said that the facts show that there were tenants in the building before the CFCO was issued; they've put forward evidence of that, and anyone who does their research can figure this out.

T. Noni Richen told the Board that she's the president of Small Property Owners Institute of SF and is in support of the proposed amendments. She said that this puts common sense regulations in place, the same that tenants use, which helps eliminate the capriciousness of some of the decisions. She related a situation where one of her board members had a 4-unit building with a tenant who was subletting, and would come back to the property and menace the owner. She said that the owner was forced to Ellis the building, and now 3 of the units are vacant; the former tenant has come by and slashed the owner's tires and sent prostitutes to his house. Ms. Richen said that they just want to prevent this, and don't want to kick people out when they have a right to be there.

U. Salman Sharia said that rent control is preserved to maintain rent control rights while a tenant is living in unit, but here, tenants are living elsewhere and making a profit. He said that SF is an example for rent control in the US, so any change needs to be done right. He told the Board that he manages lots of units for tenants who pay ridiculously low rents, and those tenants should live there. But, he said, when someone doesn't live there, and are trying to profit off of someone else, that's not a good system. He said that you can't point cameras in a unit and can't have landlords harassing tenants either, you just need to use a little common sense.

V. Brian Haagsman said that he opposes the proposed significant rule changes, and this is not the time for an expansion of Costa-Hawkins. She said that the proposed rule adopts an entirely new basis to determine that a tenant is not entitled to rent control, and is used as a harassment tool. He asked the Board to please not change the rules.

W. Deepa Varma of the SF Tenants Union agrees that units should not be Airbnb'd nor left vacant, and that those rules already exist. She said that this redefines something as narrower than what Costa-Hawkins already says. She said that SF rent control rules are so complicated because of Costa-Hawkins: state law prevents vacancy control and prevents tenants from living in a unit when a parent dies or family members divorce; the Board needs to prevent Costa-Hawkins from getting broader. She said that these proposed changes impact working class tenants, students, seasonal workers, and those taking care of family members.

X. Florence Gen, a property manager in SF said that she's seen her tenants exploit current rules and is in support of the proposed Rules. She said that her friend is a tech CEO and purchased a \$1.5m beach house near Sea Ranch, but has been in a rent-controlled SF apartment for years. She also has a friend who is a student at Stanford who signed a subtenancy lease and didn't know there were limits on proportionality. She said that the proposed Rules would help bring the supply up, and that the apartment of the friend with the beach house could be given to a family in SF who is moving in.

Y. Kenia, a tenant counselor and organizer at Causa Justa::Just Cause asked who the proposed Rule benefits. She said that there are working-class and low-income tenants in these properties; some have seasonal jobs and have to go take care of their families. She said that a tenant got a letter from a landlord attorney; landlord attorneys are already preparing to enact Costa-Hawkins rent increases, just looking to make more profit on low income and working-class folks. She said that they should be fighting at the state level to get rid of Costa-Hawkins, and the Rent Board is not the appropriate place for this conversation.

Z. Jackie McMann said that she doesn't understand why there's not a needs-based rent control, and referenced a New Yorker article about Nora Ephron.

V. Consideration of Appeals

A. 623 Capp Street

AL200005

The subtenant's petition alleging a disproportional share of rent was granted. The ALJ determined that the subtenant paid more than her proportional share of rent from April 1, 2017 through May 31, 2019, and the master tenant was found liable to the subtenant for rent overpayments in the amount of \$6,061.56. The master tenant appeals, arguing that the ALJ erred in not considering the services she provided to the subtenant in calculating the subtenant's total proportional share.

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

B. 1016 Noe Street #B

AL200006

The tenants' petition alleging decreased housing services was granted. The landlord was found liable to the tenants for rent reductions corresponding with decreased housing services in the total amount of \$2,280.00 for lead paint contamination for the periods of May 13, 2019 through December 31, 2019, and with an ongoing monthly rent reduction of

\$300.00. On appeal, the landlord contends that the tenants did not cooperate in allowing the landlord's contractors access to their unit; that the tenants harassed the landlord; that the ALJ was biased and would not let the landlord's witnesses speak; and that the monthly rent reduction should be lowered to \$200.00.

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

C. 2152 Pine Street #5

AT190206, AT190207

The tenant's petitions alleging decreased housing services were granted in part and denied in part. The landlords were found liable to the tenant for rent reductions corresponding with decreased housing services in the total amount of \$3,222.00 for fireplace draft, soot and dust caused by a missing damper and spark arrestor for the periods of October 10, 2014 through April 3, 2019. The ALJ found that the tenant did not meet her burden of proving that the persistent smell of fresh paint 7 weeks after renovation in the subject unit constituted a substantial decrease in housing services. On appeal, the tenant argues that the ALJ showed preferential treatment to the landlord; that the ALJ emphasized irrelevant aspects of the fireplace issue and that a spark arrestor was never installed; the ALJ miscalculated when the landlord was first notified of the decrease in services; and that that the rent reduction should have been higher.

Commissioner Wasserman recused himself from the consideration of this appeal because, although he did not participate in this matter, the landlord is his client.

MSC: To deny the appeals and to remand the cases to the ALJ solely to issue a technical correction.
(Mosbrucker/Qian: 5-0)

D. 1461 Sacramento Street

AT200004

The tenant's appeal was filed 5 days late because she was traveling out of town when the decision issued.

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

The tenant's petition alleging decreased housing services and failure to repair and maintain was granted in part and denied in part. The landlords were found liable to the tenant for rent reductions corresponding with decreased housing services in the total amount of \$1,250.00 for failure to replace the air filter for the tenant's furnace for the period of June 8, 2018 through June 10, 2019; and failure to provide a reasonable secured mailbox for the period of June 10, 2016 through August 11, 2017. Six other decreased housing service claims, and the tenant's claim that the February 1, 2019 rent increase be deferred because the landlords have failed to repair and maintain the property were denied. On appeal, the tenant argues that the ALJ was biased and that he ignored or excluded some of the evidence submitted.

MSC: To deny the appeal and to remand the case to the ALJ solely to issue a technical correction.
(Mosbrucker/Wasserman: 5-0)

E. 1863 Alabama Street #2

AL200007

The tenant's petition alleging decreased housing services was granted. The landlords were found liable to the tenant for rent reductions corresponding with decreased housing services in the total amount of \$925.00 for loss of use of the solarium for the period of December 15, 2018 through January 31, 2020; and loss of garage parking space use for the period of January 1, 2019 through May 30, 2019. On appeal, the landlords argue that the parking space was not included in the tenant's lease and that the landlords never permanently reduced the tenant's use of the solarium.

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

F. 3435 Cesar Chavez Street #206, #327, #335 & Tower

AL190216

Tenants of units 206, 327, 335 and the Tower unit at the subject property filed petitions alleging unlawful rent increases, and requested a determination of whether the Rent Board had jurisdiction over the subject tenancies. The request was granted, and a decision issued on July 1, 2016 which determined that all four units are subject to the jurisdiction of the Rent Ordinance. The ALJ found that the landlord did not meet the burden of proving that there had been no residential tenancy in the building of any kind between June 13, 1979 and the date of issuance of the Certificate of Occupancy (CFCO) and therefore did not establish that the subject live/work units were exempt from the Rent Ordinance under Rules and Regulations Section 1.17(g). The landlord appealed, and at the October 11, 2016 commission meeting, the Board voted to deny the landlord's appeal on the issue of jurisdiction and to remand the tenants' unlawful rent increase claims to the ALJ to determine the tenants' lawful rents and the amount of any overpayments, and to consider the landlord's financial hardship claim. Remand decisions granting the tenants' unlawful rent increase claims were issued, and the landlord's appeal of the remand decisions was denied by the Board at its October 17, 2017 meeting. On January 16, 2018, the landlord filed a timely Petition for Writ of Administrative Mandamus in San Francisco Superior Court Case No. CGC-18-563682. On April 29, 2019, the court issued an Order remanding the case, finding that the determination by the Rent Board that the subject units are subject to the Rent Ordinance pursuant to Rent Board Rules and Regulations Section 1.17(g) is supported by substantial evidence; and ordered the Rent Board to determine whether the specific units subject to the Petition for Writ come within Rent Board Rules and Regulations Section 1.17(e). Pursuant to the Superior Court's Order, the ALJ issued a remand decision finding that the landlord did not meet its burden of proving that there was no residential use of the four subject units prior to the issuance of the CFCO, and that the subject units are therefore not exempt from the Ordinance as newly constructed units pursuant to Rule 1.17(e) or Rule 1.17(g). On appeal of the remand decision, the landlord contends that the subject units meet the definition of new construction under Rent Ordinance Section 37.2(r)(5) and Rules and Regulations Section 1.17(e); that the exemption for newly constructed units in Rules Section 1.17(e) contains

no requirement that residential occupancy begin after the CFCO issues; that equitable estoppel bars the denial of the validity of the prior decisions; and that issue preclusion bars relitigating the newly constructed nature of the rental units at the subject property.

MSC: To deny the appeal.

(Mosbrucker/Qian: 3-2; Gruber, Wasserman dissenting)

IV. Remarks From the Public (continued)

A. Dean Gridley said that it's almost impossible to know if someone is not living in their unit, because the only reason he found out is through secondary information. He said he doesn't know how can he define people coming and going in apartments and how they'd catch them, as he only knows one tenant who was involved in an Airbnb incident. He said that the definition of occupancy is vague in the Rules and Regulations.

B. Deepa Varma of the SF Tenants Union said that abuse of rent control means different things; but they're saying they need to preserve homes for folks. She said that under the current law tenants would be allowed to stay; but with the proposed changes the tenants would be pushed out and subject to market rate rent and a lot of people would be negatively impacted.

C. Amina Rubio said that her family are small landlords in LA, and that if you really want to get rid of tenants, just tell them their leases are not being renewed or if you want to make repairs, just give them a 24 hour notice that you are coming in. She said that here there will never be enough tenants to have you make the money you want.

D. Joe Ansel asked how one can have two permanent places of residence. He said that landlords are required to have one, but tenants can have multiple. He said that Costa-Hawkins regulations for landlords should be the same for tenants: there should be one permanent place of residence. He said that many say that landlords are harassing tenants, but there's millions of ways to know a tenant is not living there: sometimes the mail comes back, the surfboard is missing; he waited 2 ½ years to get hard evidence.

E. Albert Dong said that he is empathetic because he's an owner-occupant. He said that his tenant's mail piled up through mid-January and he admitted he didn't live there on a regular basis. He asked if there was a way for the tenant to tell the truth that he's not making a profit off his roommates; Mr. Dong wants solid mechanisms that would make that clear, and said that there should be a middle ground.

F. Jason Matlof says that the law is confusing; this is not about Airbnb & short-term rentals, it's not about tenant harassment; this is that the Rent Board has chosen to establish a precedent to allow for multiple permanent places of residence; it is about people using their apartments for pied-a-terres and subletting to others; it is denying vacant units from going back on the market and exacerbating the housing crisis. He said that the same rules should apply to all and asked the Board to pass the amendments to the Rules and Regulations.

G. Marvin Frankle said that in the one case where 8 of 14 units were abusing the primary residence, none of those 8 units had any consequences for abusing the system. He said that he had no recourse and that it encourages fraud.

H. Leticia Arce said that she's been doing tenant counseling for 7 years with thousands of cases, and has seen many invalid and valid Costa-Hawkins cases. She said they help tenants to provide all the evidence they can to the landlords and their attorneys up front and sometimes the rent increase notice is not rescinded or paused while the Rent Board case is pending and tenants are then at risk of eviction. She said that she sees abuse by landlords and their attorneys who drag the case out until the tenant can't afford the raised rent. She asked that the proposed Rules language not be expanded, as tenants already have a hard enough time fighting against invalid rent increases. She said that the Rent Board would see an increase in Costa-Hawkins cases.

I. Attorney Dennis Zaragoza said that he has been a tenant counselor for the Housing Rights Committee of SF for many years, but that he was speaking as a lawyer looking at the proposed Rules. He said that some of the proposed changes may violate the Code of Civil Procedure Section 1094.5, because one of the requirements for overturning an agency decision is if you didn't have a fair trial. He said that lack of jurisdiction may be akin to Larson. He said that limiting the evidence one can present may too be a deprivation of due process and may make it easier for a landlord to get a market rate rent increase. He said that nobody likes to see the equivalent of civil rights violations or throwing lower- or middle-class people out of their homes.

Commissioner Wasserman made an announcement about the February 15 passing of landlord Russell Flynn who was one of the first members of the Rent Board commission.

VI. Communications

- A. Articles from NBC Bay Area, Curbed SF, New York Times, MissionLocal, SF Examiner, and SFGate.
- B. Workload statistics for December 2019.
- C. Copies of the newly amended Rules and Regulations.

VII. Director's Report

Executive Director Collins updated the Board on outreach. He explained that Rent Board supervisor Jennifer Rakowski is working with the Government Center of the Main Library through the Main and branch libraries and starting an outreach project in June 2020. He said that staff will be conducting outreach at Sunday Streets in the Mission on March 8. He also told the Board that staff would conduct outreach at the SF Apartment Association Tradeshow on March 26 at Fort Mason, and Jennifer Rakowski will hold a workshop.

Executive Director Collins and Deputy Director Varner reminded the Commissioners that their Form 700s and Ethics and Sunshine training declarations are due April 1, and that their

Department of Human Resources' Harassment Prevention Training must be completed by April 10.

Executive Director Collins informed the Board that Supervisors Fewer and Peskin requested a hearing to be held on March 23, 2020 (File No. 200100), regarding rent increases, passthroughs and hardship provisions, which is related to the Legislative and Budget analyst report released recently.

VIII. Old Business

A. Proposed Amendment to Rules and Regulations Regarding Tenant's Permanent Place of Residence

At its January 28, 2020 meeting, the Board discussed a proposal by Commissioner Wasserman to amend the Rules and Regulations regarding a tenant's permanent place of residence, including how the term "permanent place of residence" should be interpreted, and where the definition should appear in the Rules and Regulations. At the conclusion of the discussion, the Commissioners directed staff to prepare a proposed amendment to Rules and Regulations based on Commissioner Wasserman's proposal. In response, staff drafted proposed amendments to Rules and Regulations Sections 1.21 and 6.14. Commissioner Mosbrucker began the discussion of the proposed Regulations, first questioning whether these were the proper sections to amend. Commissioner Mosbrucker then requested a formal opinion from the Rent Board's deputy City Attorney regarding the Rent Board's authority to interpret state law. Commissioner Mosbrucker also said that Section 1.21 already addresses the situation where a rental unit is being used as a pied-a-terre; and that nothing in Costa-Hawkins limits a tenant to one permanent place of residence. She clarified that landlord and tenant permanent place of residence requirements in the Ordinance and Rules and Regulations are two different things, as the landlord's residence is only in question in the case of an owner move-in eviction, and argued that Costa-Hawkins was designed to prevent vacancy control, not to prevent a unit from being used as a pied-a-terre. After discussion, the commissioners requested that staff request from the Rent Board's deputy City Attorney a confidential formal opinion before the March 17, 2020 meeting as to whether the Rent Board's proposed amendments to the Rules and Regulations Sections 6.14 would be lawful and within the Board's authority.

B. Proposed Amendments to the Rules and Regulations to conform to the Haney Legislation – Extending Eviction Controls to Units Constructed After June 13, 1979, and to Units That Have Undergone a Substantial Rehabilitation

At the Board's January 28, 2020 meeting, staff agreed to draft proposed Rules and Regulations to conform to the Haney Legislation Ordinance changes, and agreed to provide the proposed Rules and Regulations to the Board in advance of the February 25, 2020 meeting. The Board discussed some clarifications to Regulations Section 1.18, agreeing to include language that was drafted based on the Board's current interpretation of the new construction exemption. At the conclusion of the discussion, the Board made and voted upon the following motion:

MSC: To move out to public hearing the current draft version of Proposed Amendment to Rules and Regulations Section 1.17 as drafted and the current draft version of Proposed Amendment to Rules and Regulations Section 1.18 to include the language in Section 1.18(a): “provided there was no residential use of the unit prior to the issuance of the Certificate of Occupancy.”
(Mosbrucker/Wasserman: 5-0)

IX. New Business

There was no New Business.

X. Calendar Items

March 17, 2020

A. Consideration of Appeals

8 appeal considerations

B. Public Hearing - Proposed Amendments to the Rules and Regulations to conform to the Haney Legislation – Extending Eviction Controls to Units Constructed After June 13, 1979, and to Units That Have Undergone a Substantial Rehabilitation

C. Old Business

1. Proposed Amendment to Rules and Regulations Regarding Tenant’s Permanent Place of Residence
2. Proposed Amendment to Rules and Regulations Regarding General Bond Passthroughs

XI. Adjournment

President Gruber adjourned the meeting at 8:34 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.