



Edwin M. Lee
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, March 14, 2017
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 6:08 p.m.

II. Roll Call

Commissioners Present: Abe; Crow; Dandillaya; Gruber; Mosbrucker; Mosser; Qian; Wasserman.
Commissioners not Present: Hung; Marshall.
Staff Present: Collins; Lee; Varner.

Commissioners appearing on the record late: Dandillaya; 6:14 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 14, 2017.
(Mosbrucker/Qian: 4-0)

IV. Consideration of Appeals

A. 138 Hyde Street #17

AT170012

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at the scheduled mediation. 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 further hearings will be scheduled.
(Mosbrucker/Qian: 5-0)

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B. 2282 Sutter Street

AT170011

The subtenant's petition alleging a disproportional share of rent was granted. The master tenant was held liable to the subtenant in the amount of \$1,009.16. The subtenant appeals, arguing that since the master tenant occupied 50% of the unit with a private bath, and the subtenant occupied 25% with a shared bath, that the subtenant's proportional share should have been determined by exclusively-occupied square footage.

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

C. 472 Grove Street

AL170005

The tenants' petition for unlawful rent increase was granted. The ALJ found that the landlord was liable to the tenants in the amount of \$3,750.00 for rent overpayments and that the lawful rent was \$3,000.00, the rent at the inception of the tenancy on April 1, 2014. On appeal, the landlord argues that the current lawful rent should be \$3,100.00 per the rental agreement that was signed on May 1, 2015.

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

D. 3783 – 20th Street #19

AT170007

The landlord's petition for certification of the costs of installation of carbon monoxide detectors, interior painting, exterior lighting, dryrot/fungus abatement, new private roof deck on unit #19, tree removal, ACM abatement/piping insulation, new bathroom window in unit #19, and sidewalk and curb replacement was granted in part and denied in part. The ALJ certified the claimed cost for the installation of a new roof deck for unit #19 and found that the tenant failed to state a valid objection to certification of the cost of the work. The tenant in unit 19 appeals, arguing that because the rebuilt private roof deck was never waterproofed and the materials used were of low quality, the passthrough amount should be reduced. The tenant also questions whether the cost of the structural plans and permit for the deck included costs for other work or penalties.

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

E. 748 Page Street #9

AT170006

The tenant's petition alleging an unlawful rent increase to \$4,500 effective June 1, 2016 under the Costa-Hawkins Rental Housing Act was denied. The ALJ found that the tenant no longer permanently resided in the subject unit at the time the landlord served the notice of rent increase on April 1, 2016, and that the rent increase was therefore authorized by Civil Code Section 1954.53(d)(2). The tenant appeals, arguing that Costa-Hawkins does not define the term "permanently reside" and allows a tenant to be temporarily away from the unit without forsaking it as one's permanent place of residence,

and that she did not establish residency in any other place. The tenant also argues that she did not contradict her own testimony, and that the ALJ was biased.

MSC: To recuse Commissioners Crow and Wasserman from the consideration of this appeal.
(Mosbrucker/Abe: 5-0)

MSF: To grant the appeal.
(Mosbrucker/Qian: 2-3; Abe, Dandillaya, Gruber dissenting)

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

F. 190 Gaven Street, Upper Unit

AT170009

The tenant's petition alleging an unlawful rent increase was denied. The ALJ found that the subject unit was exempt from the rent limitations of the Rent Ordinance under Civil Code Section 1954.52(a)(3)(A) of Costa-Hawkins Rental Housing Act as a single-family dwelling. On appeal, the tenant argues that the landlord falsely misrepresented the facts regarding the condition of the property upon purchase, and that the landlord's intention and motives for the property have been misleading.

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

G. 342 – 5th Avenue #4

AL170010

The landlord's petition for a rent increase from \$577.72 to \$2,047.50 based on comparable rents was granted in part and denied in part. The ALJ found that a special relationship existed between the former landlord and the tenant because the tenant was the landlord's nephew, and the rent was set low as result of this relationship. The landlord appeals the amount of the comparable rent set by the ALJ, arguing that the ALJ omitted a near perfect comparable rent, that she failed to compensate for a significant difference in size and square footage when calculating the new rent, and that she unnecessarily diluted the rent calculation with a comparable rent outside of the immediate area.

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

H. 1495 – 10th Avenue #1

AL170008

The tenant's petition alleging a substantial decrease in housing services and an unlawful rent increase was granted. The landlord was held liable to the tenant in the amount of \$5,092.16 for rent overpayments resulting from null and void increases and \$55.00 for a rent reduction corresponding to the decreased housing service of loss of garage parking. The landlord appeals, arguing that the rent refund should not be given solely to the tenant petitioner, but should be divided between all the roommates.

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

V. Remarks from the Public

A. Martha Cheng, the sister of landlord Violet Cheng of 1495 10th Avenue #1 (AL170008), told the Board that the landlord is in the hospital. Ms. Cheng said that the landlord is now entitled to the 1.6% rent increase from 2006. She stated that if the landlords write a check to the tenant, then they won't know if the tenant has distributed the overpayment to her former roommates, and asked if this tenancy is just going to continue on.

B. Maria Soriano, the tenant at 190 Gaven Street, Upper Unit (AT170009) thanked the Board for hearing her case even though the decision was not in her favor, and wanted to know if she can petition for decreased housing services.

VI. Communications

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

A. Annual Report on Eviction Notices.

B. Workload statistics for the month of January 2017.

C. Articles from the S.F. Examiner, S.F. Chronicle, Guardian UK, Nested, Mountain View Online and the S.F. Chamber of Commerce.

VII. Director's Report

Executive Director Collins reminded the Commissioners that this is the last board meeting before their Forms 700, Certificates of Ethics Training and Sunshine Ordinance Declarations are due on April 3. Executive Director Collins informed the Board that counselors Van Lam and Ben Ng conducted a well-attended outreach event at the Chinatown Library on February 25. Executive Director Collins provided the Board with an update about the Annual Report on Eviction Notices.

VIII. Calendar Items

April 11, 2017
10 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 6:53 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.