



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, May 11, 2021
at 6:00 p.m.

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

Public Comment Dial In Number: (415) 655-0001 / Access Code: 187 570 8515

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 were issued 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 May 10, 2021 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3voVhef>. 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

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

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Crow read the Ramaytush Ohlone Land Acknowledgment.

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III. Roll Call

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

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

Commissioners Not Present: Dandillaya; Gruber.

IV. Approval of the Minutes

MSC: To approve the minutes of April 13, 2021.
(Wasserman/Qian: 8-0)

V. Remarks from the Public

A. Jaimie Bombard, landlord's attorney at 2030 – 47th Avenue (AT210021) said that the evidence established that the property is a single-family dwelling, and that the tenant petitioner has been renting the property as such since 2012. She told the board that there is no factual or legal basis that the Administrative Law Judge's (ALJ) decision is in error, and that the decision should stand.

B. Vandor Hill, the tenant at 3161 – 23rd Street #A (AT210019), told the Board that all the evidence he submitted proved his point; he was never given proper 90-day notice. He said that the landlord was aware of his existence since February 2020 when the master tenant submitted a residential certificate with his name and move-in date. He said that he has been trying to work out something with the landlord since the original tenant moved out in June 2020.

V. Consideration of Appeals

A. 669 – 19th Avenue

AL210014

The tenant's petition alleging an unlawful rent increase was granted. The ALJ determined that the tenant's lawful base rent is \$718.20, and that the landlord is liable to the tenant in the amount of \$24,794.20 for rent overpayments for the period from August 10, 2017 through March 9, 2021. The landlord appeals, contending that the April 10, 2018 rent increase was proper; and that the landlord and his wife are elderly and have medical expenses and limited income so that the overpayment is a financial hardship, but does not submit the landlord hardship appeal.

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

B. 1419 Silver Avenue

AL210032

The tenants' petition alleging an unlawful rent increase was granted. The ALJ determined that the tenants' lawful base rent is \$1,850.00, and that the landlord is liable to the tenant

in the amount of \$29,400.00 for rent overpayments for the period from October 1, 2017 through March 31, 2021. The landlord appeals, contending that she paid for annual improvements and repairs each year of the tenancy, and therefore the overpayment should be reduced by the amount she paid for the improvements and repairs.

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

C. 2030 – 47th Avenue

AT210021

The tenant's petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act was denied. The ALJ determined that the subject property was rented as one dwelling unit by agreement between the landlord and the tenant since 2012; and therefore the May 1, 2020 rent increase from \$2,300.00 to \$4,000.00 was authorized by Civil Code Section 1954.52(a)(3)(A) of Costa-Hawkins. The tenant appeals, contending that the Costa-Hawkins rent increase was the landlord's attempt to evict her.

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

D. 3161 – 23rd Street #A

AT210019

The tenant's appeal was 1 day late because he understood the appeal had to be postmarked by the appeal deadline, rather than received by the appeal deadline.

Commissioner Crow recused himself from the consideration of the appeal because he consulted with the tenant in the past.

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

The tenant's petition alleging a failure to repair and maintain and an unlawful rent increase under the Costa-Hawkins Rental Housing Act was denied. The ALJ determined that the tenant petitioner was a lawful subtenant who did not reside in the unit prior to January 1, 1996; and therefore the September 1, 2020 rent increase from \$1,839.00 to \$3,500.00 was authorized by Civil Code Section 1954.52(d)(2) of Costa-Hawkins. On appeal, the tenant argues that the landlord served the tenant with an invalid 60-day rent increase notice, rather than a 90-day rent increase notice, and that the decision contains some inaccurate dates and descriptions.

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

E. 221 Clayton Street

AT210020

The tenant's petition alleging decreased housing services and an unlawful rent increase under the Costa-Hawkins Rental Housing Act was denied. The ALJ determined that the tenant failed to meet her burden of proving a substantial decrease in housing services

based on Rules and Regulations Section 6.15B. The ALJ further determined that the tenant was not a co-tenant with the original occupant, but was a lawful subtenant or assignee who began residing at the subject unit after January 1, 1996; therefore the rent increase from \$2,500.00 to \$5,000.00 effective April 7, 2021 was authorized by Civil Code Section 1954.52(d)(2) of Costa-Hawkins. The tenant appeals, arguing that the ALJ failed to consider that the landlord forbade the tenant petitioner to have any roommates, so the tenant was unable to make a written request to the landlord for permission to sublease and proffer potential subtenants to the landlord; and therefore the tenant petitioner met her burden of proving a substantial decrease in housing services under Regulations Section 6.15B.

MSC: To accept the appeal and remand the case to the ALJ solely to consider the tenant petitioner's decreased housing services claim based on the existing evidence.
(Wasserman/Tom: 5-0)

F. 145 Laurel Street #1, #2, #4, #5, #6, #7, #12, #14, & #15 AT210022 – AT210031

The landlord's petition for a capital improvement passthrough to 10 of 17 units was partially granted. The ALJ certified the full cost of re-piping of the domestic water system. The ALJ did not certify the full cost of the exterior painting of the concrete shear core because it was not required to waterproof the concrete, was not performed incidental to the construction of concrete shear core, and did not meet the definition of a capital improvement; and did not certify the full cost of the voluntary seismic upgrade because moving and valet parking costs do not meet the definition of capital improvements. The tenants in nine units appeal, arguing that: the landlord's petition is barred by Ordinance Section 37.7(f)(1) and/or Rules and Regulations Section 7.10(a), since the landlord did not provide the tenants and Rent Board with the requisite "Pre-Application Notice" for capital improvement projects that are expected to exceed \$25,000.00 per unit; the costs are excessive and unreasonable; the work performed was due to deferred maintenance; the rent increases are a hardship; the capital improvement passthroughs will result in unjust enrichment to the landlord; and by not adhering to federal or state regulations, the work caused long-term tenants to be constructively evicted.

Appeal AT210031 was withdrawn on April 29, 2021. Appeals AT210023-AT210030 were withdrawn on May 7, 2021.

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

Commissioner Crow recused himself from the consideration of this appeal because he represented a tenant on this matter prior to this Rent Board filing.

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

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IV. Remarks From the Public (continued)

- A. Enrico Sunga, one of the tenants at 1419 Silver Avenue (AL210032), explained that he and his brother lost their jobs and are on unemployment, and that their sister is helping them, and he wanted to know how to apply the overpayment.

VI. Communications

- A. Articles from SF Gate, SF Examiner, MSN, CBS San Francisco, SF Business Times, SF Public Press, Mission Local, and CalMatters.
- B. Workload statistics for March 2021.
- C. Updated Rent Ordinance sections regarding the extension of the eviction moratorium.
- D. Copy of legislation introduced at Board of Supervisors, file number 210346 to prevent removal of community kitchens.

VIII. Director's Report

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

Executive Director Collins told the Board that the Annual Report on Eviction Notices was released, and indicated that from 3/1/20 to 2/28/21 which was most of the COVID-19 pandemic period, filings were down from the previous year by 49%. He said that the number of eviction notices for nonpayment of rent were the same; notices for nuisance were unchanged, from 362 to 361; Ellis notices were down 33%; unapproved subtenant notices were down 48%; eviction notices for temporary capital improvements were down 68%; roommate eviction notice filings were down 70%; breach of lease notices were down 79%; habitual late payment notices had an 84% reduction; and importantly, eviction notices for owner move-ins were down from 196 to 29 notices, for a total reduction of 85%. He explained that the reductions made sense because it was an unusual year due to the pandemic. Executive Director Collins explained that operations remain about the same and that the department is expecting additional guidance towards the end of the month, with possible changes coming in the summer or fall, and that the commissioners will be informed of any changes at the next meeting. Executive Director Collins explained that legislation concerning the Rent Board fee will not be carried by the Board of Supervisors but rather by the Mayor's Office as part of the department's entire budget.

IX. Old Business

A. Fiscal Year 2021-2022 Departmental Budget Update and Changes

Executive Director Collins told the Board that this budget discussion is a reopening of the budget discussion from February 2021. He said that in January 2016 the Board gave him specific instructions to look for more space for the department, and that the department has now acquired about 2,600 square feet of office space in the suite next door. Executive Director Collins stated that under the approved budget, the department will spend

approximately \$4M more to hire additional people to handle the department's new responsibilities, including the new units under the Rent Board's jurisdiction and now implementing the new rental housing inventory, and staff would be really constrained even with additional space in the suite next door. He explained that a new 12,700 square foot space in the same building has come available, which is significant and gives the department room to grow and be efficient. However, he said, the department has to update the space to add additional hearing rooms, which could trigger an update of the fire, safety and electrical systems. He explained that the tenant improvements would be about \$2M and includes fire, safety, and lighting improvements and then build out for a reception area, and \$250,000 to \$825,000 in holding costs, which would be spread out over two years so the net effect on the Rent Board fee would be \$7-\$9 per year. Executive Director Collins said that if the department did not move now, it would stay on the premises for many years as it would not have the ability to find such space in the future. The department will have to remake its revenue stream, remake its technology, and remake its space, and that for the future of the agency, this is the best decision. Executive Director Collins said that he is also looking at adding a position to manage the project. Commissioner Isbell voiced his support for the project. Commissioner Wasserman stated that the Rent Board fee doesn't often get charged to the tenants by smaller landlords, but the larger landlords often pass it through, and reminded the landlords that they can pass through 50% of the Rent Board fee. Commissioner Klein had questions about how tenant improvements are negotiated and contracted with City properties, and about the Rent Board fee amount. Executive Director Collins explained that rent is not renegotiated and also that the Rent Board fee would go up by about \$7 to \$9 per unit, temporarily for two years, and then an increase of under \$0.50 per unit the following year based on the previous fee.

At the close of the discussion, the commissioners made and voted on the following motion:

MSC: To approve the May 11, 2021 budget amendment.
(Isbell/Wasserman: 8-0)

X. New Business

(There was no New Business.)

XI. Calendar Items

June 15, 2021 – remote meeting via Webex Events

A. Consideration of Appeals

3 appeal considerations (one consolidated)

XII. Adjournment

Vice President Mosbrucker adjourned the meeting at 7:43 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.