



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 12, 2020
at 6:00 p.m.

Remote Meeting via video and teleconferencing

<https://bit.ly/35Chwle>

Public Comment Dial In Number: (888) 363-4734 / Access Code 1830039

Deputy Director/Board Secretary Varner made the following announcement: 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 the COVID-19 virus. Due to these declarations, orders, and proclamations, and for the safety of the public, the commissioners, and the staff, the Rent Board Commission's March 17, 2020 and April 14, 2020 meetings were cancelled.

In March 13, 2020 and March 23, 2020 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. Therefore, the Rent Board Commission meeting is being held via videoconferencing and will allow for remote public comment. The public hearing originally scheduled for March 17, 2020 will be held on a later date, when the Rent Board is more fully able to conduct a public hearing. Please visit the Rent Board's website for ongoing updates during the COVID-19 emergency. The May 12 meeting was streamed on the internet using the Microsoft Teams platform.

I. Call to Order

President Gruber called the meeting to order at 6:30 p.m.

II. Roll Call

Commissioners Present: Crow; Dandillaya; Gruber; Hung; Isbell; Klein; Mosbrucker;
Qian; Tom; Wasserman.
Staff Present: Brandon; Collins; Koomas; Varner.

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III. Approval of the Minutes

MSC: To approve the minutes of February 25, 2020.
(Wasserman/Mosbrucker: 5-0)

IV. Remarks from the Public

A. Phillip Bruni, the tenant at 190 ½ Valley Street (AT200008) told the Board that he wants to provide conclusive evidence that the accessory dwelling unit (ADU) costs are being included in the amount that is being charged to the tenants. He read an excerpt from the engineer's drawing and argued that those costs were including in the passthrough rather than being attributed to the ADU. He said that he read the ALJ's memo but it doesn't address the tenant's claim, and that unless the ALJ is willing to carefully scrutinize the plans, they will be missed.

B. Cord Struckmann, the landlord at 422 Monterey Blvd. #2 (AL200010) asked the Commissioners to evaluate the case from the perspective of July 2019, when the notice was served, because the evidence that the tenant used to argue that he spent time in the unit was after July 2019, and the tenant spent less than 20% of his time in the apartment.

V. Consideration of Appeals

A. 905 Cole Street

AL200015

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 June 1, 2019 through August 31, 2019, and the master tenant was found liable to the subtenant for rent overpayments in the amount of \$1,949.24. 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, that the subtenant's room was fully furnished, and that there was never a fourth subtenant in the unit.

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

B. 27 San Carlos Street

AL200016

The subtenant's petition alleging a disproportional share of rent and decreased housing services was granted in part and denied in part. The ALJ determined that the subtenant did not pay more than her proportional share of rent from June 1, 2016 through March 31, 2019, but found that the master tenant was liable to the subtenant for inadequate electrical service for the period of August 1, 2017 through October 31, 2018 in the amount of \$1,125.00. On appeal, the master tenant contends that he did not receive the notice of hearing, and submits a Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. Should the master tenant fail to appear, absent extraordinary circumstances, no new hearings will be scheduled.

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

C. 85 Henry Street #3

AL200012

The tenant's application for deferral of capital improvement passthroughs due to financial hardship was granted. The ALJ found that the tenant was a recipient of means-tested public assistance, and therefore qualified for hardship relief under Rules and Regulations Section 10.15(b)(1)(A) without the need to present additional evidence concerning income or assets at a hearing. On appeal, the landlord contends that the tenant failed to disclose additional sources of income, and submits new evidence.

MSC: To deny the appeal.

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

D. 2140 Grove Street #4

AT200014

The tenant's petition alleging decreased housing services was denied. The ALJ found that the tenant did not meet her burden of proving that the condition of the bathroom; the kitchen cabinet under the sink; or the flooring between the bathroom and kitchen in the subject unit constituted a substantial decrease in housing services. On appeal, the tenant argues that she was denied the ability to present email evidence in response to false statements made by the property managers.

MSC: To deny the appeal.

(Wasserman/Qian: 5-0)

E. 102 Cordova Street, First Floor

AL200011

The tenants' petition alleging an unlawful rent increase was granted, and the landlords were found liable to the tenants for rent overpayments in the amount of \$5,000.00. The landlord appealed, contending that he did not come to the hearing because he was sick, and that he is a senior with memory problems. At its October 8, 2019 meeting, the Board voted to accept the appeal and remand the case for a new hearing. On remand, the ALJ found that the tenants' current lawful base rent is \$1,500.00 and that the landlord is liable to the tenants for rent overpayments in the amount of \$4,700.00. On appeal of the remand decision, the landlords contend that they never gave authorization for tenant Jose Mejia to move in, and that there are too many occupants in the unit.

MSC: To deny the appeal.

(Qian/Wasserman: 5-0)

F. 422 Monterey Boulevard #2

AL200010

The landlord's petition under Rules and Regulations Section 1.21 was denied. The ALJ found that the landlords did not meet their burden of proving that the subject unit was not

the tenant's principal place of residence at the time the petition was filed on July 16, 2019, and therefore the landlord was not entitled to increase the rent without limitation under Section 1.21. The landlords appeal, arguing that the tenant has spent most of his time out of the unit for more than the past 9 months, and that his personal documents reference another address.

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

G. 561 – 36th Avenue

AT200017

The landlord's petition under Rules and Regulations Section 1.21 was granted. The ALJ found that the tenant did not reside in the subject unit as his principal place of residence at the time the petition was filed on August 28, 2019, that there was no other tenant in occupancy at that time, and therefore the landlords are entitled to increase the rent to \$3,500.00 pursuant to Section 1.21, effective November 1, 2019. The tenant appeals, arguing that his absence from the unit was temporary and due to work and family reasons.

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

H. 190½ Valley Street

AT200008

The landlord's petition for a capital improvement passthrough to 4 of 6 units was granted in part. The ALJ certified the cost of mandatory soft story seismic retrofit work required by law, but allocated the cost between 7 units instead of 6, which included a newly constructed accessory dwelling unit (ADU). One tenant appeals the decision, arguing that portions of the petitioned cost were attributable to the construction of the ADU, not the seismic retrofit work.

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

I. 196 Valley Street

AT200013

The landlord's petition for a capital improvement passthrough to 3 of 6 units was granted. The ALJ certified the cost of mandatory soft story seismic retrofit work required by law. One tenant appeals the decision, arguing that portions of the total passthrough cost should be allocated to the renovation work of one unit in the building, that the tenants were unable to view all of the submitted documents, and that the decision contains a calculation error.

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

J. 925-929 Fell Street

AL200009

The landlord's appeal was filed 176 days late because he believed his representative would file the appeal on his behalf, but later learned that he had not.

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

The landlord's petition for a capital improvement passthrough to 6 of 10 units was granted in part and denied in part. The ALJ certified the cost of mandatory soft story seismic retrofit work required by law, but did not certify a cost of \$14,220.00 for change orders #1 and #4. The landlord appeals the ALJ's decision, arguing that he should be given the opportunity to have change orders #1 and #4 sent to the estimator, instead of having to submit time and materials billings.

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

MSC: To accept the appeal and remand the case for the estimator to provide the required information to the ALJ, with a hearing to be held only if necessary.
(Wasserman/Gruber: 3-2; Mosbrucker, Qian dissenting)

IV. Remarks From the Public (continued)

A. *(There were no remarks from the public during the second public comment period.)*

VI. Communications

A. Articles from LA Times, SF Chronicle, SF Examiner, Bay Area Reporter, and Curbed SF.

B. Monthly workload statistics for January 2020 and February 2020.

C. An updated list of Rent Ordinance amendments.

D. Copy of the updated Rent Ordinance.

VII. Director's Report

A. Rent Board Operations During COVID-19 Health Emergency

Executive Director Collins provided the Commissioners an update on Rent Board operations. He explained that while the Rent Board office continues to be closed to the public, phone counseling services have not been interrupted and continue to be available as an essential service to the public. He said that counselors work remotely and the volume of calls is high, with a great deal of questions regarding new legislation and COVID-19-related questions. Executive Director Collins also explained that staff are

testing a new voice-over IP (VOIP) call center and have new laptops to be able to better work remotely. He also highlighted that the website is constantly updated to keep the public informed of services, that the department has a new email address to receive filings, and that much of the department's data entry is being performed remotely. Executive Director Collins told the Board that staff are regularly working to provide the best service to the public possible in the current situation.

In regards to legislation, Executive Director Collins explained that amendments to the buyout ordinance have expanded the definition of buyout agreements to include agreements to settle an unlawful detainer lawsuit, if such an action is filed within 120 days after buyout negotiations commenced, and that the legislation also required the Rent Board to revise its buyout forms. He also told the Board about the temporary rent freeze that applies to annual allowable and banked rent increases, operating and maintenance increases, and passthroughs, which applies to all rent increases effective between April 7, 2020 and June 23, 2020, unless extended. Mayor Breed ordered that residential tenants who can demonstrate that they are unable to pay rent due to financial impacts related to COVID-19 are eligible to defer rent payments. The Mayor's order was expanded to temporarily ban all residential evictions, except for evictions related to violence, threats of violence, health and safety issues, or evictions under the Ellis Act. It was further ordered that the rental payment extension procedures stated that a tenant was no longer required to provide written notice to the landlord regarding missed rent payments.

Executive Director Collins told the Board that an ordinance amending the Administrative Code was introduced on April 14, 2020 to prohibit landlords from evicting residential tenants for rent that was not paid due to the COVID-19 pandemic and from imposing late fees (file number 200375). File Number 200456 is an emergency ordinance to establish protections of for occupants of residential hotels; 200475 would prohibit landlords from evicting and imposing late fees on tenants in single room occupancy (SRO) hotels who did not pay the rent due to the COVID-19 pandemic. The corporate rentals intermediate length use occupancy legislation passed second reading, which also impacts the Planning Department. He explained that there are two hearings pending before the Board of Supervisors: one on the frequency, conditions and impacts of landlord passthrough petitions that result in rent increases for SF tenants and 200232 is a hearing to assess data on vacant and residential homes and units.

Executive Director Collins also made an announcement that Form 700s would be due on June 1, provided some updated data on eviction notices, and provided some budget updates.

VIII. Old Business

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

Commissioner Wasserman announced that he would indefinitely table his Old Business item regarding proposed amendments to the Rules and Regulations

regarding a tenant's permanent place of residence due to the coronavirus health emergency until after the November 2020 election.

B. Proposed Amendment to Rules and Regulations Regarding General Bond Passthroughs

Senior ALJ Koomas discussed the proposed amendment to the Rules and Regulations regarding general bond passthroughs. He explained that amendment would have to be made to Rules and Regulations Section 10.15 in regards to tenant financial hardship applications. After agreeing that the cancelled public hearing originally scheduled for March 17, 2020 would have to be rescheduled at the June meeting, and seeing that tenant hardship application filings would not be impacted by this Regulations change until after November 1, 2020, the board agreed to continue this item as Old Business for the June 16, 2020 meeting.

IX. New Business

(There was no New Business.)

X. Calendar Items

June 16, 2020

A. Consideration of Appeals

12 appeal considerations

B. 7:00 p.m. - Public Hearing regarding Proposed Amendments to Rules and Regulations Sections 1.17 and 1.18 – Extending Eviction Controls to Units Constructed After June 13, 1979 and Units That Have Undergone a Substantial Rehabilitation

XI. Adjournment

President Gruber adjourned the meeting at 8:15 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.