



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 14, 2019  
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 6:04 p.m.

II. Roll Call

Commissioners Present: Crow; Dandillaya; Gruber; Isbell; Klein; Mosbrucker; Qian; Tom.  
Commissioners not Present: Hung; Wasserman.  
Staff Present: Collins; Gartzman; Koomas; Varner.

III. Approval of the Minutes

MSC: To approve the Minutes of April 9, 2019.  
(Mosbrucker/Klein: 5-0)

IV. Remarks from the Public

A. Ramsey Nayef Abouremeleh, one of the tenants at 1215 – 29<sup>th</sup> Avenue, Main Level, SE Bedroom (AL190026), told the Board that he and his roommates were illegally evicted from units by the landlord Christie Barrett West, who had a long history of misusing the Rent Board. He said that one tenant was forced to live out of her car and is still having trouble with housing, and that the landlord has a long history of illegally evicting people. He asked the Board to please not grant the appeal.

B. Dolores Chong, the attorney for the landlord at 1371 Alabama Street (AL190023) told the Board that the landlord is appealing the denial of a request to rescind an owner/relative move-in (RMI) eviction, and that the issue is the date of rescission of the RMI. She said she did not fill out the request for rescission in a prompt manner and thinks that's what the ALJ is relying upon, and that the request for rescission should have been done after she dismissed the lawsuit. Ms. Chong said by operation of law, the RMI notice that she created was fatally

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defective, and that she acted accordingly; she demanded back rent and rent going forward and refund of relocation payments; they did everything that is required to rescind the notice. She said that the rescission request form was unclear, and objected to the ALJ's response to her appeal, which she claimed was inappropriate.

C. Laura Daza, of Causa Justa::Just Cause, the representative for the tenant at 1371 Alabama Street (AL190023) said that that the tenant and her family were forced to move out and sign the buyout agreement based on the landlord's claim that the landlord was going to proceed with another OMI if they didn't sign the buyout. Ms. Daza said that the day the tenant returned the keys, the landlord yelled at the tenant stating it was her house and that she was going to move in. Ms. Daza requested that the constraints remain in place.

D. Laura Daza, of Causa Justa::Just Cause, the representative for the tenant at 1468 Folsom Street #9 (AL190025), told the Board that the landlord is claiming that he was not aware that the tenant was proceeding with the hearing; but they clearly informed the landlord that they were going forward with the hearing as evidenced by an email to the landlord the night before the hearing, which said they were going to proceed. Ms. Daza said that she and the tenant also had a call with Abigail Rivamonte from Supervisor Haney's office, and informed her they were going to proceed. She said that the tenant has submitted evidence and testimony that she has a direct landlord-tenant relationship with the landlord and is a recognized occupant; that the landlord does not have a legal argument with this appeal; and asked the Board to uphold the ALJ's decision.

E. One of the subtenants from 5168 Mission Street (AL190021) said that she brought proof that everything that the master tenant said on appeal is a lie. She said that she has evidence of everything, and has been living in the unit for 6 years.

F. Walter Torres, the master tenant at 5168 Mission Street (AL190021) told the Board that the subtenant's claim she has lived in the apartment for 6 years is not true, because her occupancy began in 2015. He also said that he has witnesses to prove that what the subtenants put down about his raising the rent in 2016 is not true.

G. Rosa Maria Cavalho, of Tenderloin Housing Clinic, appeared as the representative for the tenants at 721 Geary Street #1, 10 and 22 (AT190031, AT190036, & AT190037). She told the Board that they are appealing the decision by the ALJ which approved the operating and maintenance expense (O&M) increase because they do not believe that Veritas met the burden of showing reasonable reliance; as the document that Veritas continues to show is a heavily redacted document that's part of their escrow agreement that simply asks for an exchange of documents from the seller. She said that they do not believe that this shows that Veritas heavily or solely relied on its ability to petition for a rent increase based on increased operating and maintenance expenses. Ms. Cavalho also said that during the last board meeting she was concerned as to why Commissioner Wasserman did not recuse himself, and asked whether it was a conflict of interest because Daniel Stern of Wasserman-Stern represents Veritas. She said she was also concerned that Commissioner Wasserman spoke during public comment at the Board of Supervisors, speaking against the positions of O&M reform, and felt that perhaps he is prejudiced in that regard.

V. Consideration of Appeals

A. 1592 Washington Street

AL190028

The tenants' petition alleging decreased housing services was granted. The landlord was found liable to the tenants for rent reductions in the amount of \$3,282.00 for: inadequate heat; lack of cold water in the bathroom sink; bad condition of the bathroom walls and ceiling; and the bad condition of the front entry door for the period from December 10, 2018 through April 30, 2019; and for the nonfunctioning doorbell from October 22, 2014 through April 30, 2019. The landlord appeals, contending that he never received the notice of hearing nor the decision because they were mailed to the wrong address, and submits a Declaration of Non-Receipt of Notice of Hearing or Decision.

MSC: To accept the appeal and remand the case for a new hearing. Should the landlord again fail to appear, absent extraordinary circumstances, no further hearings will be scheduled.  
(Mosbrucker/Klein: 5-0)

B. 5168 Mission Street

AL190021

The master tenant's appeal was filed 117 days late because he spends most days and nights with his wife who is in the hospital, and believes that the subtenants stole or hid his mail.

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

The subtenants' petition alleging a disproportional share of rent was granted. The ALJ found the master tenant liable to the subtenant for rent overpayments in the amount of \$11,661.79 for the time period of July 1, 2015 through November 30, 2018, and determined that the subtenants' lawful rent was \$654.61 per month. The master tenant appeals on the basis that he never received the notice of hearing nor the decision because he spends most days and nights with his wife who is terminally ill in the hospital, and believes that the subtenants stole or hid his mail, and submits a Declaration of Non-Receipt of Notice of Hearing or Decision.

MSC: To accept the appeal and remand the case for a new hearing. Should the master tenant again fail to appear, absent extraordinary circumstances, no further hearings will be scheduled.  
(Mosbrucker/Qian: 5-0)

C. 1863 Alabama Street #2

AL190027

The landlord's appeal was filed 114 days late because he did not know he was able to apply for financial hardship.

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

The tenant's petition alleging an unlawful rent increase, decreased housing services, and a failure to repair and maintain was granted in part and denied in part. The landlords were found liable to the tenant in the amount of \$18,056.00 for rent overpayments, and in the amount of \$875.00 for a broken refrigerator, a broken dishwasher, and a broken garbage disposal, for a total of \$18,931.00. The ALJ further found that the tenant failed to establish that the condition of the deck floor and the water damage in the shower constituted substantial decreases in housing services warranting a reduction in base rent; that no rent reduction was due for the shower door because the tenant replaced it himself shortly after he notified the landlords that it was broken; and that the landlords timely repaired the ceiling leak after notice from the tenant. The amount requested in the petition for the deck baluster and supports and window frames claims was \$0.00, and therefore the ALJ did not award a rent reduction for those items since any award is limited to the amount sought in the petition. Two of the landlords appealed on the merits, contending that they were told by the tenant that the only reason the tenant filed the petition was to make an agreement for his records, so they were not ready to answer the ALJ's questions at hearing; that the tenant lied about his rent history; and that the tenant is very difficult and leaves garbage in the garage. At its January 22, 2019 meeting, the Board voted to deny the appeal. The third and newest landlord now appeals the decision on the basis of financial hardship.

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

D. 875 Clayton Street

AL190030

The landlord's petition requesting a determination that the subject building is exempt from the Rent Ordinance as a single family dwelling in which the landlord resides was denied. The ALJ found that because the tenant respondents and several other tenants have separate rental agreements and rent separate units in the subject building, and each of these dwelling units is not "alienable separate from the title to any other dwelling unit," each of the units in the subject building is subject to the jurisdiction of the Rent Ordinance. The landlord appeals, arguing that Rent Board Info-To-Go Topic 019 says that renting out more than one room "may" not qualify for an exemption as a single family dwelling, and that the tenants are a family.

MSC: To recuse Commissioner Crow from the consideration of this appeal.  
(Mosbrucker/Klein: 5-0)

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

E. 1468 Folsom Street #9

AL190025

The tenant's petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act was granted. The ALJ found that the February 1, 2019 rent increase from \$406.75 to \$3,800.00 was not authorized under Civil Code Section 1954.53(d)(2) of Costa-Hawkins because the tenant petitioner was a tenant with a direct landlord-tenant relationship with the landlord, and not an assignee or sublessee when the notice of rent

increase was served. The landlord appeals, contending that the matter had been resolved prior to hearing and that the petition had been withdrawn.

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

F. 1018 Shotwell Street #A

AL190029

The tenants' summary petition and petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act were granted. The ALJ found that the October 1, 2018 rent increase from \$829.00 to \$5,500.00 was not authorized under Civil Code Section 1954.53(d)(2) of Costa-Hawkins because tenant petitioner Roque Hernandez was a tenant with a direct landlord-tenant relationship with the landlord, and not a subtenant or assignee when the notice of rent increase was served. The landlord appeals, contending that he had insufficient opportunity to respond to tenant petitioner Hernandez' claim that he was a co-tenant because the argument was not presented until the second hearing; and that the ALJ ignored evidence that tenant petitioner Hernandez moved out of the unit for a period of time, and therefore, should have found that when his occupancy recommenced, it was as a subtenant and not a co-tenant.

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

MSC: To accept the appeal and remand the case to the ALJ for a hearing to allow both parties to submit further evidence regarding tenant Hernandez' occupancy and relationship with the landlord.  
(Gruber/Klein: 3-2; Mosbrucker, Qian dissenting)

G. 415 Jones Street #408

AT190022

The tenants' petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act was denied. The landlord's petition for a rent increase under Rules and Regulations Section 1.21 was withdrawn at hearing. The ALJ found that the original occupant Samir Chand no longer permanently resided at the subject unit when the notice of rent increase was served on August 28, 2018, and determined that tenant Chand's relative Rajendra Tuladhar moved into the subject unit in May 2018 as a subtenant who never paid rent directly to the landlord before service of the August 5, 2018 6.14 Notice and the August 28, 2018 rent increase notice, and that the landlord is entitled to impose an unlimited rent increase pursuant to Civil Code Section 1954.53(d)(2) of Costa-Hawkins and Rules and Regulations Section 6.14. On appeal, the tenant contends that he continues to permanently reside in the subject unit; that there must be a determination that an original occupant has permanently vacated before a landlord may impose a Costa-Hawkins rent increase; and that the landlord's withdrawal of his 1.21 petition was improper.

Consideration of this appeal is continued to the June 11, 2019 board meeting.

H. 1371 Alabama Street

AL190023

The landlord appeals the decision denying its request for rescission of a relative move-in (RMI) eviction notice. In the decision, the ALJ found that the tenant vacating a unit pursuant to a buyout agreement does not constitute extraordinary circumstances for purposes of rescinding an RMI eviction notice. On appeal, the landlord argues that rescission should be granted based on extraordinary circumstances because the tenant did not vacate based on the RMI notice, but pursuant to a buyout agreement that was entered into after the RMI notice was served, and the RMI notice was actually rescinded on an earlier date when the related unlawful detainer action was dismissed.

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

I. 1215 – 29<sup>th</sup> Avenue, Main Level, SE Bedroom

AL190026

The landlord appeals the decision denying her request for rescission of an owner move-in (OMI) eviction notice. In the decision, the ALJ found that the landlord failed to prove that no tenant vacated after the August 27, 2018 OMI eviction notice was served, or that extraordinary circumstances exist to justify rescission. On appeal, the landlord argues that rescission should be granted based on extraordinary circumstances because the tenants did not vacate based on the OMI notice, but rather, left voluntarily.

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

J. 750 O'Farrell Street #407

AT190024

The landlord's petition seeking a 7% rent increase due to increased operating and maintenance (O&M) expenses to the tenants in 23 of 48 units was denied. The ALJ denied the landlord's petition on the basis that the landlord failed to submit complete and adequate evidence relating to the following categories: garbage; water/sewer; property taxes; debt service; management; and elevator service, and since the claimed costs in these categories were not sufficiently established, these categories were not considered in the Decision and the landlord's petition was denied. The landlord appealed, arguing that the failure to submit some evidence should not have disqualified the entire category, and submitted new evidence regarding each category except elevator service. At its November 13, 2018 meeting, the Board voted to accept the appeal and remand the case to the ALJ on the record to consider the new evidence submitted by the landlord on appeal, with no additional new evidence to be accepted from the landlord. In the remand decision, the ALJ found that the landlord met the burden of proving an increase in operating and maintenance costs from Year 1 to Year 2. The tenant in unit #407 appeals, arguing that property manager Mosser Co. and the landlord are commingling funds and are not separate; that she was not served with a copy of the petition; that the landlord has made unnecessary renovations; that the results were skewed; and that Mosser Co. has reduced services to tenants.

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

K. 721 Geary Street #1, #10, and # 22

AT190031, AT190036,  
AT190037

The landlord's petition seeking a 7% rent increase due to increased operating and maintenance (O&M) expenses to the tenants in 16 of 27 units was granted. The ALJ determined that the evidence showed that at the time of the purchase of the property the landlord had reasonably relied on its ability to pass through the costs of increased debt service and property taxes through an O&M rent increase. The tenants in units 1, 10, and 22 appeal, arguing that the landlord did not reasonably rely on its ability to pass through the costs of property tax and debt service at the time of its purchase of the property.

MSF: To accept the appeal and remand the case to the ALJ to determine if the purchase or financing would have proceeded if the landlord had known debt service and property taxes were not available through an operating and maintenance expense petition.  
(Mosbrucker/Qian: 2-3; Gruber, Dandillaya, Klein dissenting)

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

#### IV. Remarks From the Public (continued)

A. Rosa Maria Cavalho, of Tenderloin Housing Clinic, appeared as the representative for the tenants at 721 Geary Street #1, 10 and 22 (AT190031, AT190036, & AT190037). She told the Board that she has been in a lot of the O&M hearings with Veritas or other landlords, in which they do submit some sort of paper and claim that they did reasonably rely on the cost because they asked for documentation, and oftentimes the ALJ will turn to the representatives and ask them their understanding of reasonable reliance. Ms. Cavalho said that when she and other tenant advocates worked on this legislation, their understanding of the intent of the legislation was to preclude property tax and debt service from being passed through, and that reasonable reliance would be something more specific. She said that it is a little frustrating at hearings when the ALJs are turning to tenant advocates or Veritas for the definition of reasonable reliance.

#### VI. Communications

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

A. Workload statistics for March 2019.

B. Updated commissioner roster.

C. Articles from the S.F. Examiner, S.F. Chronicle, Bay Area Reporter, CurbedSF, SF Weekly, 48Hills, and CBS SF.

VII. Director's Report

Executive Director Collins provided the Board an update on office space, explaining that the search for a larger office space with additional hearing rooms has been going on for three years, and staff believed that a good space had been found. However, it was determined that the prospective space was not a good option given the cost involved. Executive Director Collins also provided a FY 2019-2020 budget update. He explained that the addition of one FTE 2982 Rent Board Supervisor has been tentatively approved, as well as \$40,000 for digitization of records, but the tentatively approved budget does not include increases for training costs, postage increases, and a previously proposed 1408 principal clerk position; the budget hearing will take place on June 14. Executive Director Collins then provided an update on outreach, which included the following: public information unit supervisor Jennifer Rakowski and Board President David Gruber tabled at Sunday Streets in the Tenderloin on April 14; Lehua Asher tabled at Sunday Streets in Dogpatch on May 5; Marissa Jimenez and Josh Vining will perform outreach at the SF Housing Expo at City College on June 1; staff will table at Sunday Streets in Golden Gate Park and the Sunset on June 9; and staff will table and perform outreach at the Earthquake Safety Fair on June 11, from 10:00a.m. to 4:00 p.m. at the Bill Graham Civic Auditorium, a well-attended event that is also attended by the Housing Rights Committee, SF Tenants Union, SF Apartment Association, and the Small Property Owners Institute. Finally, Executive Director Collins briefly discussed the recently released report regarding rent registration: if rent registration is instituted at the Rent Board, the Rent Board would have to increase the budget substantially, likely by raising the Rent Board fee \$10-21 per year, imposing the fee on all units, not just on currently rent stabilized units, and hire 15-31 FTEs to carry out all the necessary administrative tasks.

Senior ALJ Gartzman announced that staff and commissioners would celebrate the Rent Board's 40<sup>th</sup> Anniversary and honor former Commissioner Polly Marshall with a luncheon on June 10, from 12:00pm - 1:30pm.

VIII. Old Business

*(There was no Old Business.)*

IX. New Business

A. Nomination of Board Vice-President

This item was moved for consideration as Old Business at the June 11, 2019 meeting.

X. Calendar Items

June 11, 2019

A. Consideration of Appeals

10 appeal considerations (incl. 1 continued appeal consideration)

XI. Adjournment

President Gruber adjourned the meeting at 7:46 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.**