



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, June 15, 2021
at 6:00 p.m.

Remote Meeting via video and videoconferencing
<https://bit.ly/3g8EVjZ>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 187 690 3706

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 June 15, 2021 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3g8EVjZ>. The public comment call in instructions are 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

President Gruber called the meeting to order at 6:09 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Tom read the Ramaytush Ohlone Land Acknowledgment.

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III. Roll Call

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

Staff Present: Brandon; Collins; Koomas; Varner.

Commissioners Not Present: Crow.

Commissioners Appearing Late: Mosbrucker, 6:38 p.m.

IV. Approval of the Minutes

MSC: To approve the minutes of May 11, 2021.
(Qian/Wasserman: 8-0)

V. Remarks from the Public

A. Timothy Kelly, attorney for the tenants at 455 Burnett Avenue #2 & #4 and 457 Burnett Avenue #8 & #12 (AT210035-AT210042) urged the Board to grant another hearing since there is a genuine dispute about the effectiveness of the new system, and because the tenants did not have an attorney at the original hearing. He also asked the Rent Board to confirm that financial hardship can still be considered subsequent to the appeals.

B. Jaime Uziel, attorney for the landlord at 455 Burnett Avenue #2 & #4 and 457 Burnett Avenue #8 & #12 (AT210035-AT210042) said that there is no good cause to have a re-hearing of the matter as there was expensive time, effort and money spent to have the matter heard, and there was ample opportunity for the tenants to obtain counsel but they chose not to. In terms of the new system, he said, if there are any issues, the tenants should bring that to the landlord's attention and the decision was proper.

C. Rene Diaz, the master tenant at 60 Diamond Street (AL210045 & AL210046) told the Board that subtenant Eichholz consistently lied, for which he provided evidence, including regarding the size of the units above and below; that he is renting the rooms again, but the room is under construction; and that the subtenant forged documents. Mr. Diaz said that when the subtenant returned after being gone for over a month, she did not have a place to stay so he helped her, and then she threatened to blackmail him if he didn't lower her rent. Mr. Diaz said that he discovered that she started lying a month after she moved in.

D. Misty Eichholz, one of the subtenants at 60 Diamond Street (AL210045 & AL210046) told the Board that everything she submitted as evidence is honest, and that she could also accuse the master tenant of lying, and that she submitted evidence to contradict what he appealed.

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V. Consideration of Appeals

A. 60 Diamond Street

AL210045, AL210046

The master tenant's appeals were 3 days late because it took him a long time to read through the documents and reply due to a health condition.

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

The subtenants' petitions alleging disproportional shares of rent were granted. The ALJ determined that subtenant petitioner Eichholz's proportional share of the total rent was \$625.00 from August 1, 2019 through April 30, 2021 and subtenant petitioner Duffy's proportional share of the total rent was \$625.00 from September 1, 2019 through April 30, 2021. The ALJ determined that the master tenant was liable to subtenant Eichholz for rent overpayments in the amount of \$5,950.00, and was liable to subtenant Duffy for rent overpayments in the amount of \$4,400.00. The master tenant appeals both decisions, contending that the measurements of the unit are smaller, that subtenant Eichholz lied about knowing the total rent amount and trying to have the lease transferred to her as the master tenant.

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

B. 925-929 Fell Street

AL210043

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 appealed 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. At its May 12, 2020 meeting, the Board voted 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. In the remand decision, the ALJ certified the costs of the change orders with the exception of a \$1,000.000 cost for an additional Ufer and permit. On appeal of the remand decision, the landlord disputed the excluded additional Ufer and permit expense, and newly disputed the excluded portion of the engineering expense, and also sought a finding on \$3,780.00 of the petitioned cost.

MSC: To accept the appeal and remand the case to the ALJ to hold a hearing solely to consider the Ufer costs and the additional engineering costs.
(Wasserman/Gruber: 5-0)

C. 455 Burnett Avenue #2 & #4 and 457 Burnett Avenue #8 & #12

AT210035-AT210042

The landlord's petitions for capital improvement passthroughs to 10 of 15 units were granted. In petition L191425, the ALJ certified the full cost of a mandatory soft-story

seismic retrofit. In petition L191873, the ALJ certified the cost of new front doors; interior painting; common area lighting; door access system; and replacement of: carpet & baseboard, fire alarm, intercom system, garage door, and gas pipe. The tenants in four units appeal, arguing that: some items are properly considered maintenance rather than capital improvements, including painting; that the gas pipe was installed incorrectly and created new problems and therefore does not materially add value to the property; and that the door entry system is excessive, elaborate and unnecessary and does not improve health or safety conditions.

MSC: To deny the appeals.
(Wasserman/Gruber: 4-1; Isbell 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 SF Chronicle, SF Examiner, Bay Area Reporter, SFAA Magazine, and KRON4.
- B. Workload statistics for April 2021.
- C. Board of Supervisors file 210537 regarding an extension of temporary tenant protections until September 30, 2021.
- D. Board of Supervisors file 201603, the effect of COVID on commercial leases.
- E. Board of Supervisors file 210602, which is an emergency ordinance for eviction protections for tenants unable to pay rent.
- F. Board of Supervisors file 210601-2, which is an emergency ordinance for eviction protections for tenants who cannot pay rent.

VIII. Director's Report

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

Executive Director Collins told the Board that the department has been given guidance to open for in-person front counter services, specifically to assist those people with difficulties accessing services, and that the department is considering how to do that with the least impact on staff, particularly given the small lobby. He said that the plan for summer is to open the front counter to people who may not have been able to access the Rent Board's services when operating only remotely, with more services available in the fall, and that approximately 25% of staff continue to be on site.

Executive Director Collins explained that recently introduced legislation includes amendments to the Planning Code regarding state-mandated accessory dwelling unit (ADU) controls. He

explained that from the Rent Board perspective, the legislation seeks to clarify things that many thought were already in effect.

Commissioner Wasserman suggested revisiting and resurrecting regulations regarding the Mirkarimi amendments that were drafted by former Senior Administrative Law Judge Tim Lee. Executive Director Collins said that they were very well explained in the minutes of those meetings.

In regards to staffing changes, Executive Director Collins told the Board that ALJ Jeff Eckber will be retiring at the end of June and thanked ALJ Eckber for his 24 years of service to the Rent Board. Executive Director Collins said that staff member Nick Pagoulatos would be leaving to go to MOHCD after almost two years of service, and that Tania Chacon would be leaving the Rent Board after 11 years of service to work at the Board of Supervisors. He congratulated ALJ Eckber on his retirement and congratulated Nick and Tania on their promotions.

Deputy Director and Board Secretary Varner provided the Commissioners' with an update regarding future board meetings. She explained that City Hall and various public-facing departments at City Hall were opened on June 7, and that the Board of Supervisors began holding full Board meetings in person, but that the public are prohibited from attending and are required to provide comment by phone only. Deputy Director Varner explained that the City is beginning to make plans for the eventual reopening of meetings, but policy body secretaries have also been reminded that the Mayor's orders still prohibit policy bodies from meeting in person at this time. She also reminded the Board that the Governor rescinded certain provisions in the Brown Act that allow policy bodies to meet virtually, but once those provisions are reinstated, the Brown Act will prohibit any virtual policy body meetings. She said that there are proposed amendments to the Brown Act that would mandate a hybrid of virtual/in-person public comment at all policy bodies across the state, and that the Commissioners will be kept informed, but that at this time, this commission will continue to hold remote board meetings with remote public comment.

Executive Director Collins congratulated Commissioner Isbell, who will be stepping down from the Board, and thanked him for the work he has done for the Board. Commissioner Isbell announced his resignation from the Board, effective after the July meeting, because he is going to become a homeowner, and will no longer be a tenant.

IX. Old Business

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

Executive Director Collins urged caution on the Rent Board fee, the proposed amount which he said changed in February, and then again changed in May, and said that the final fee amount may not be issued until July 2021. He further explained that the Department of Real Estate is going to absorb the department's holding costs of \$550,000.00 for the 6th and 7th floor space for the first year, and that absorbing of the holding costs remains to be determined in the second year. Secondly, he said, the department has been able to secure a vendor to help with the fee, the inventory and later on, online filings, and this was helping to reduce the amount budgeted for this expense. Executive Director Collins said that the budget for next fiscal year is

approximately \$14M, and so the newest estimate of the Rent Board fee is back down to \$64.00, however, this amount may still change. He said that the department is presenting before the Budget Committee at the Board of Supervisors tomorrow, and thanked the Mayor for support during the biggest transition in the department in 40 years. Executive Director Collins also thanked the Mayor's Budget Office; the City Administrator Carmen Chu; Andrico Pennick, the director of the Department of Real Estate; senior staff for their flexibility; the City Administrator Budget staff including Adam Nguyen and Tricia McMahon; and the Office of the Treasurer and Tax Collector.

B. Board Racial Equity Work

Deputy Director and Board Secretary Varner, as the Rent Board's Racial Equity Leader, engaged the commissioners in a discussion about future racial equity trainings. She first thanked Commissioner Isbell for his service and lifting up the department's racial equity work and being a leader for this commission. She explained that in line with the department's Racial Equity Action Plan, she will be arranging for the commissioners to attend a racial equity and implicit bias training in 2021. She informed the Board that the Office of Racial Equity (ORE) is working with the Mayor's Office to develop an online training module, which will likely be ready in 2021, so given that the goal is to have the commissioners attend a training in 2021, she is seeking other options. She explained that during this first year of Racial Equity Action Plan implementation, the ORE expects City and County policy body racial equity trainings to provide a baseline understanding of structural and systemic racism, to help members understand the impact of racism in the policy group's focus area, and to enable them to apply a racial equity lens to the work that they do. Deputy Director Varner inquired as to whether commissioners preferred to do an in-person or online training module, whether they would like to participate in a Department of Human Resources (DHR)-led training. President Gruber said that he would prefer that the DHR-led training, given DHR's knowledge of City culture. Commissioner Tom contributed that he had taken the DHR online training and that it was informational and up-to-date. Commissioner Mosbrucker said that a training in a public meeting forum would not be beneficial for honest discussions, so perhaps it would require their attending in small groups. President Gruber requested more information about the content of the trainings. Deputy Director Varner confirmed that she would seek out more information regarding the content of the trainings from DHR, and would inquire about the available ways to hold a training that would not violate the Brown Act.

X. New Business

(There was no New Business.)

XI. Calendar Items

July 13, 2021 – remote meeting via Webex Events

A. Consideration of Appeals

5 appeal considerations

Commissioner Mosbrucker will read the Ramaytush Ohlone Land Acknowledgment.

XII. Adjournment

President Gruber adjourned the meeting at 7:33 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.