



London N. Breed  
*Mayor*

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*Executive Director*

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*PRESIDENT*

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DAVE CROW  
SHOBA DANDILLAYA  
RICHARD HUNG  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
KENT QIAN  
DAVID WASSERMAN

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD**

Tuesday, July 10, 2018  
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 6:03 p.m.

**II. Roll Call**

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

Commissioners appearing on the record late: Mosbrucker, 6:11 p.m.; Hung, 6:17 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of June 12, 2018.  
(Marshall/Crow: 5-0)

**IV. Remarks from the Public**

A. Shauna Matlin, attorney for the landlord at 2370 Chestnut Street #312 (AT180040), told the Board that it was her brother's birthday, and that she wanted the appeal heard first, so she could jump on a plane and surprise him.

**V. Consideration of Appeals**

A. 505 Divisadero Street

AL180044

The landlord's petition seeking a capital improvement passthrough rent increase to the tenants in two residential units was dismissed due to the landlord's nonappearance at the

hearing. The landlord appeals, stating that he missed the hearing because he was stuck in a meeting at work.

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.  
(Abe/Gruber: 5-0)

B. 2108 Folsom Street #5

AL180049

The tenant's petition alleging an unlawful rent increase was granted. The landlords were found liable for rent overpayments in the amount of \$35,860.26. The ALJ determined that the rent increase from \$1,653.00 to \$2,500.00 on December 5, 2014 was not authorized by Civil Code Section 1954.53(d)(2) of the Costa-Hawkins Rental Housing Act; and that the tenant's current corrected base rent is \$1,695.98. The landlords appeal, arguing that the ALJ was biased against the landlords and the landlords' attorney; that the testimony of the tenants was not credible; and that the ALJ did not permit the landlords to fully cross-examine the tenants and their witnesses.

MSC: To deny the appeal.  
(Marshall/Crow: 5-0)

C. 2323 Larkin Street #7

AL180047

The tenant's petitions alleging decreased housing services and failure to repair and maintain were granted. The landlord was found liable to the tenant for rent reductions for failure to provide adequate heat in the amount of \$760.00. The ALJ also found that the landlord failed to perform requested repairs required by law, namely inadequate heat and weatherproofing of windows; that the rent increase from \$2,291.25 to \$2,458.51 effective March 1, 2018 was therefore deferred until April 18, 2018 when repairs were completed; and that the landlord was liable to the tenant in the amount of \$267.61 for rent overpayments. On appeal, the landlord alleges that the tenant was allowed to submit documents after the hearing but that he was not; that the tenant submitted documents but did not give them to him; that he did not have the opportunity to rebut the tenant's irrelevant, prejudicial, and false allegations; and that the ALJ was influenced by these allegations.

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

D. 2 Dublin Street, Upper Unit

AL180048

The tenants' petition alleging decreased housing services was granted in part and denied in part. The landlord was found liable to the tenants for rent reductions for damaged kitchen flooring and tenant-paid water and garbage service in the amount of \$8,691.77. The ALJ further found that: the tenants failed to meet their burden of proving that cameras mounted in plain view at the exterior of the building constituted a substantial decrease in housing services; and the landlord repaired the kitchen faucet water issue and sink P-trap

leak within a reasonable time and therefore no rent reductions were warranted for those items. On appeal, the landlord argues that the ALJ abused his discretion in allowing the tenants not to pay for their share of the utilities when the 2014 lease contract stated the contrary, and that it is not reasonable to force the landlord to pay for all the utilities because the tenants have unpermitted subtenants living in the unit.

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

E. 258 Central Avenue #A

AT180046

The tenant's application requesting deferral of a capital improvement passthrough on the basis of financial hardship was dismissed due to the tenant's non-appearance at the hearing. The tenant appealed, claiming that she did not receive the Notice of Hearing, and attached the requisite Declaration of Non-Receipt of Notice of Hearing. On December 12, 2017, the Board voted to accept the appeal and remand the case for a new hearing. In the remand decision, the ALJ found that the tenant qualified for hardship relief from payment of the capital improvement passthrough for the period from August 6, 2016 through June 18, 2017 only. On appeal, the tenant argues that she should qualify for hardship for the period of July 2017 through September 2017 because during that time she borrowed money from family members to pay rent, that she did not receive her first partial paycheck until late September 2017, and that she continued borrowing from family through October and November 2017.

MSC: To accept the appeal and remand the case for the ALJ to consider any evidence that the tenant submits to demonstrate income or absence of income for the time period of June through September 2017, with a hearing to be held only if necessary.  
(Marshall/Mosbrucker: 5-0)

F. 241 Duboce Avenue #B

AL180043

The tenants' petition alleging an unlawful rent increase was granted. The landlords were found liable for rent overpayments in the amount of \$14,913.76. The ALJ found, in part, that effective January 1, 2012, the tenants' agreed to a base rent increase of \$150.00 in exchange for use of storage in the garage. The landlords appeal, arguing that the tenants agreed to a rent increase of \$300.00 for use of storage in the garage, not \$150.00; that the tenants' rent history was incorrectly stated in the decision; and that the January 1, 2014 rent increase should be adjusted, rather than being null and voided.

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

MSC: To accept the appeal and remand the case to the ALJ to consider the additional evidence submitted on appeal and any other evidence the parties would like to submit prior to hearing, with a hearing to be held only if necessary.  
(Mosbrucker/Marshall: 5-0)

G. 580 – 8<sup>th</sup> Avenue

AT180045

The tenant's appeal was filed 13 days late because she alleges she never received the decision in the mail, and files the requisite Declaration of Non-Receipt of Notice of Hearing or Decision.

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

The landlords' petition for certification of the costs of air sealing the garage and crawlspace; deck replacement; new heating system; and new wiring in the basement to one of two units was granted in part and denied in part. The ALJ certified the capital improvement costs for all the items, but disallowed the cost of the building permit for the new furnace system as it covered work for both units and not just the subject unit. On appeal, the tenant argues that the deck replacement costs should be disallowed because the invoice was bogus and the deck was not replaced with the exact same replacement materials; and that the furnace system should have been just repaired and not replaced and that the landlord should have obtained a rebate on the work.

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

H. 2370 Chestnut Street #312

AT180040

The tenant appeals the decision granting the landlord's petition under Rules and Regulations Section 1.21. In the decision, the ALJ found that the tenant was not a tenant in occupancy of the subject unit at the time the petition was filed on March 24, 2017, and that there was no other tenant in occupancy. The ALJ determined that the landlord is entitled to increase the rent without limitation under Regulations Section 1.21, and that the landlord's notice of rent increase to \$3,600.00 does not violate the Ordinance. The tenant appeals, arguing that the reason for the tenant's absence was due to the constant and disruptive construction work occurring at the property which interfered with the tenant's quiet enjoyment of the home, and which coincided with the tenant's extensive required international business travel.

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

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

A. The landlord from 580 – 8<sup>th</sup> Avenue (AT180045) asked the Commissioners to confirm the motion.

B. Carmel Gouveia, the landlord at 231 Duboce Avenue #B (AL180043), asked the Commissioners what the verdict was.

VI. Communications

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

- A. Draft Rules and Regulations Section 6.10.
- B. Rules and Regulations Section 12.17.
- C. Memo from the City Attorney regarding use of personal electronic devices.
- D. Workload statistics for May 2018.
- E. Articles from the S.F. Chronicle, S.F. Examiner, New York Times, KQED News, CurbedSF.

VII. Director's Report

Executive Director Collins told the Board that the Earthquake Safety Fair took place on June 13, staffed by Marissa Jimenez, Rene Juarez, Brandon Lawrence, and Ben Ng. He informed that Board that staff would perform outreach at Sunday Streets in the Mission on July 15 from 11:00 a.m. to 4:00 p.m. Executive Director Collins informed the Board that the Housing Balance Report was scheduled July 16, where the Planning Department would present and the Rent Board would be present to answer any questions. Executive Director Collins told the Board that he attended the SRO (single room occupancy) TaskForce meeting to discuss changes in the hotel visitor policy. One issue is whether a tenant would have to present their own ID when a guest was checking out. He said that SRO tenants, representatives, and operators agreed to discuss issues ahead of time and then vote as to whether they would bring the particular issue in front of the Rent Board. Executive Director Collins informed the Board that Rosemarie Bosque, who lead the TaskForce, retired from the Department of Building Inspection.

VIII. New Business

A. Amendments to the Rules and Regulations Regarding Operating and Maintenance Expense Passthroughs

SALJ Koomas engaged the Commissioners in a discussion of proposed amendments to Rules and Regulations Section 6.10 in light of recent amendments to Ordinance Section 37.8(e)(4)(A) which limits the consideration of debt service costs, property taxes, and management expenses when a landlord seeks to increase the tenants' rents based on increased operating and maintenance expenses. The Board reviewed a draft of the proposed amendments to Rules and Regulations Section 6.10, which staff had prepared and distributed to the Commissioners prior to the meeting. Commissioner Marshall brought attention to one possible correction and had one specific question for staff surrounding the language "increase in the annual tax rate." At the conclusion of the discussion, the Commissioners agreed to continue this item as old business for the August 14, 2018 Board meeting.

B. Amendment to Rules and Regulations Section 12.17 Regarding No-fault Eviction Notices

Staff engaged the Commissioners regarding a possible amendment to Rules and Regulations 12.17. As discussed at the June 12, 2018 meeting, per the Kim Amendments beginning November 9, 2015, Ordinance Section 37.9(c) has required that notices to vacate under Sections 37.9(a)(8) (owner/relative move-in); 37.9(a)(9) (condo conversion); 37.9(a)(10) (demolition/removal from housing use); 37.9(a)(11) (capital improvements); and 37.9(a)(14) (lead abatement) state the rent for the unit at the time the notice is served. As staff became aware that a number of notices filed with the Rent Board pursuant to Ordinance Section 37.9(c) did not properly state the rent amount, staff proposed potentially amending Rules and Regulations Section 12.17 to allow staff to ask for the rent amount so that information can be correctly entered in the database and be made available to the public upon request. Staff reminded the Commissioners that Section 12.17 was amended in 2017 to allow staff to request the rent amount for owner/relative move-in notices, but not the other stated just causes. At the conclusion of the discussion, the Commissioners asked staff to prepare a draft amendment to Rules and Regulations Section 12.17 that would allow staff to request the rent amount for the above-listed just causes, and agreed to continue this item as old business for the August 14, 2018 Board meeting.

IX. Calendar Items

August 14, 2018

A. Consideration of Appeals

11 appeal considerations

B. Old Business

1. Amendments to the Rules and Regulations Regarding Operating and Maintenance Expense Passthroughs
2. Amendment to Rules and Regulations Section 12.17 Regarding No-fault Eviction Notices

X. Adjournment

President Gruber adjourned the meeting at 7:23 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.**