



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**

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

Tuesday, September 11, 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 6:04 p.m.

II. Roll Call

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

Commissioners appearing on the record late: Mosbrucker, 6:06 p.m.; Hung 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 14, 2018.
(Abe/Marshall: 5-0)

IV. Remarks from the Public

A. Keiko Kuroda, a tenant residing in the same property as the appellant in 1655 Mason Street (AT180063), told the Board that the landlord petitioned to pass through two capital improvement, and that only she and the appellant are asked to pay for this passthrough. She stated that, she still believes that there has been no real evidence produced to prove the necessity of this work, and she wasn't aware that the landlord provided evidence after hearing. Ms. Kuroda said that the engineering firm commissioned by the landlord wrote the letter after the second hearing at the request of the landlord. She said that the cost was too much, and was also submitted after the second hearing. She said that she is not sure whether there is a necessity for the work, and she still objects.

B. Harry Ottey, the master tenant at 75 Anzavista Avenue, Upper Unit (AT180060, AT180061, AL180062) told the Board that he appealed the single access tenant parking. He said that the ALJ stated in her memo that this was the first time that the master tenant spoke of a solution for single access parking, when in fact he brought up a solution on December 7, 2017, and this was not the first time he talked about it.

V. Consideration of Appeals

A. 1743 La Salle Avenue

AT180064

The tenant's petition alleging decreased housing services was dismissed due to the tenant's non-appearance. On appeal, the tenant claims that she missed her appearance by telephone due to her move to Canada and a lot of unexpected change, and that she will not miss the appointment again.

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

B. 455 Warren Drive #7

AT180066

The tenant's application for deferral of a capital improvement passthrough due to financial hardship was granted in part and denied in part. The ALJ found that the tenant qualified for hardship relief under Rules and Regulations Section 10.15(b)(1)(B) as to that portion of the passthrough that increased the tenant's rent above 33% of her gross household income, and therefore only \$18.08 of the \$59.49 passthrough was deferred based on financial hardship. On appeal, the tenant contends that the entire passthrough should be deferred.

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

C. 1068 Howard Street #3

AL180065

The landlords' appeal was filed 40 days late because they were away for a trip and believed the tenant was going to withdraw his petition.

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

The tenant's petition alleging decreased housing services was granted in part and denied in part. The landlords were found liable to the tenant for rent reductions for a lack of a lock on a weather door; removal of on-site laundry service; and a broken door buzzer in the amount of \$1,065.00. The ALJ also determined that a two-way audio function for the intercom system was not a housing service included in the tenant's base rent at the inception of the tenancy. The landlords appeal, arguing that the parties had settled and the tenant was supposed to have withdrawn the petition.

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

D. 75 Anzavista Avenue, Upper Unit

AT180060, AT180061,
AL180062

The subtenants' petitions alleging decreased housing services and a disproportional share of rent were granted in part and denied in part. The ALJ found the master tenant liable for rent reductions corresponding with decreased housing services for his failure to provide side-by-side off-street parking from December 15, 2017 to June 30, 2018 to the subtenant Bufka in the amount of \$650.00 and from December 15, 2017 to April 15, 2018 to the subtenant Balogh in the amount of \$400.00. The ALJ determined that subtenant Bufka's rent would continue to be reduced by \$100.00 until the master tenant provided side-by-side parking that is not in tandem with another vehicle. The ALJ denied the subtenants' claims of disproportional share of rent. On appeal, the master tenant claims that the subtenants voluntarily switched from side-by-side parking in the driveway to tandem parking using the driveway and a garage parking space, and that even if the Board finds that the master tenant is liable for failing to provide side-by-side parking, the master tenant's liability to subtenant Bufka should terminate as of April 15, 2018, because the housing service was restored to subtenant Bufka when subtenant Balogh vacated the unit. The subtenants also appeal, arguing that: the proportional share of rent should have been calculated based on the square footage of exclusively occupied space rather than equal division between the number of occupants; and that the master tenant's addition of a fourth occupant to the unit represents a substantial decrease in housing services warranting a rent reduction regardless of whether the subtenants' rent was contemporaneously reduced by the master tenant and remained proportional under Rules and Regulations Section 6.15C(3).

MSC: To deny the subtenants' appeals and to accept the master tenant's appeal solely to determine whether or not the service was restored, with a hearing to be held only if necessary.
(Mosbrucker/Marshall: 5-0)

E. 1655 Mason Street

AT180063

The landlord's capital improvement petition for certification of the costs of exterior painting and a shotcrete wall to stabilize the hillside to two of four units was granted. On appeal, the tenant contends that the actual square footage of his unit is less than that shown in the Assessor's measurements; that square footage measurements are important for calculating future bond passthroughs; and that no evidence of erosion control was provided by the landlord at hearing.

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

IV. Remarks From the Public (continued)

A. Keiko Kuroda, a tenant residing in the same property as the appellant in 1655 Mason Street (AT180063), again spoke and said that she wasn't aware that the landlord had made additional post-hearing submissions, as the tenants never heard a word from the original geotechnical engineer Harold Lewis. She stated that because of the cost and limited funds, the tenants could not bring more valid objections and could not hire their own engineer to get their own expert opinion. Ms. Kuroda said that the whole thing is fishy, because if you saw the site, it wasn't worth the \$38,000, but they couldn't prove why it was overpriced. She said that the landlord made up the bills after the fact, that the justification is suspicious, and she will have to pay, but is not satisfied.

VI. Public Hearing

Four members of the public spoke to the proposed amendments to Rules and Regulations Sections 6.10 and 12.17. The proposed amendments to Rules and Regulations Section 6.10 are intended to implement the recently passed legislation regarding rent increases based upon a landlord's increased operating and maintenance (O&M) expenses, which became effective July 15, 2018. The proposed amendment to Rules and Regulations Section 12.17 is in response to a report from Rent Board Senior Staff that some notices to vacate under Rent Ordinance Sections 37.9(a)(9), 37.9(a)(10), 37.9(a)(11), and 37.9(a)(14) do not state the tenant's rent as required by Ordinance Section 37.9(c). The proposed amendment would allow the Rent Board to request that the notice state the tenant's rent.

A. Attorney Kevin Greenquist told the Board that he was looking at the O&M provision which places the burden on the landlord to demonstrate that it reasonably relied on its ability to pass through the costs to the tenants at the time of purchase, which applies to both property taxes and debt service, but doesn't state what the Rent Board is looking for as far as what "reasonably relied on" means. He said he was wondering why it's not included in the factors the Rent Board would be looking for to make a showing as he has the burden of doing.

B. Jon Knott said he was there to observe and see what the Board is doing.

C. Tom Iveli told the Board that he was just observing.

D. Yao Yao Wang said that she recently received an eviction letter from her landlord, and she was looking at policies changing, and wanted to know more about her rights and came to the meeting for her class.

After the public comment and some short discussion, the Board voted on and passed the following two motions to implement the proposed amended Rules and Regulations:

MSC: To adopt amended Rules and Regulations Section 6.10, to be effective 9/11/18.
(Mosbrucker/Marshall: 5-0)

MSC: To adopt amended Rules and Regulations Section 12.17, to be effective 9/11/18.
(Mosbrucker/Marshall: 5-0)

VII. Communications

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

- A. Proposed draft Rules and Regulations Sections 6.10 and 12.17.
- B. Workload statistics for July 2018.
- C. Articles from S.F. Examiner, S.F. Chronicle, S.F. Weekly, MissionLocal, Bay Area Reporter, Mercury News, S.F. Public Press, S.F. Business Times, and Multihousing News.

VIII. Director's Report

Executive Director Collins informed the Board that staff members Lehua Asher and Ben Ng conducted outreach at Sunday Streets in the Western Addition, a regular outreach event that has been successful for the Rent Board. He told the Board that he and Deputy Director Varner would present at the September 17 S.F. Apartment Association membership meeting on the operating and maintenance increase changes to the Ordinance and Rules and Regulations as well as the Costa-Hawkins Rental Housing Act. Executive Director Collins also said that he would give a presentation to the SF Small Prop Owners Institute on October 9. Finally, he told the Board that there were two pieces of legislation introduced this summer; one, to prohibit landlords of single-family homes condominiums covered by existing eviction controls from circumventing eviction controls through rent increases, and to clarify that a rent increase intending to defraud, intimidate, or coerce, the tenant into vacating such a unit may qualify as tenant harassment; and the second, an Ordinance amending the Building, Housing, Fire and Administrative Codes to authorize the Department of Building Inspection and Fire Department to require the installation of fire safety equipment or improve updating equipment to meet code requirements. There are currently two versions of this proposed legislation, which he will provide to the Board.

IX. Old Business

(There was no Old Business.)

X. New Business

(There was no New Business.)

XI. Calendar Items

October 16, 2018

A. Consideration of Appeals

10 appeal considerations

B. Proposal for new Rules and Regulations regarding the definition of bad faith

XII. Adjournment

President Gruber adjourned the meeting at 6:54 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.