



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, October 8, 2019
at 6:00 p.m.
25 Van Ness Avenue, Room 610

I. Call to Order

President Gruber called the meeting to order at 6:11p.m.

II. Roll Call

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

III. Approval of the Minutes

MSC: To approve the Minutes of September 10, 2019.
(Mosbrucker/Qian: 5-0)

IV. Remarks from the Public

A. Zach told the Board that he is an SF resident and a disabled wheelchair user, and was there to let the Board know how useful the Rent Board has been for disabled tenants. He said that staff has been unbelievably helpful, including Aaron Morrison, Marissa Jimenez, Harrison Nam and Christina Varner. Zach said that it was a breath of fresh air to see a government agency operating as well as it does, that the Rent Board is something special, and that he hopes it increases staffing to take so many calls. Zach explained that he has had many struggles as a tenant: his landlord denied access to a wheelchair ramp and he couldn't access his mailbox in a wheelchair. He said that the annual rent increase of 2.6% this year is the highest it's been in 16 years, that the state gives about \$950 a month for disabled people, and when one is paying thousands of dollars in rent, 2.6% is a lot for vital needs.

B. Tenant Ashley Bilodeaux of 977 Pine Street said that her building is one of those being impacted by an operating and maintenance expense (O&M) increase related to the reasonable reliance issue. She said she was there to encourage the Board to pass the

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proposed Rules and Regulations regarding reasonable reliance and conform the Rules and Regulations with the amendments and urge staff to postpone the appeal consideration for 977 Pine Street for transparency and consistency. She said that the increase has impacted her, as she has had to get several jobs to keep up with the rent increases.

C. Jonas Fernandez, the landlord of 102 Cordova Street, First Floor (AL190130), said that he wanted to explain what was going on with renting, that tenant Jose Mejia moved in before the landlord agreed to rent to him. Mr. Fernandez said on the second day Jose Macias came to tell the landlord that he wanted to rent the apartment, and that he wanted him to rent to Mr. Macias' friend Carlos Garcia, who then gave the landlord the deposit. Mr. Fernandez said that he then made a new contract at the rate of \$1500.00, and then the tenants agreed and signed; and then later the tenant offered the landlord \$300.00 more because the tenant's friend Miguelina Alvarado had an emergency and wanted to move in for one month. Mr. Fernandez said that he gave a note to the tenant because Ms. Alvarado didn't pay the rent and brought children and too many people to live there, but then the tenant came to the Rent Board and said that the landlord raised the rent.

D. Glenn Foster told the Board that he has been an SF resident for 30 years, and recently retired as a registered nurse from Zuckerberg SF General Hospital. He said that last year, Supervisor Fewer passed legislation that prevented landlords to pass on their property tax, and corporate landlords' response to this was to threaten lawsuits, and continue doing what they wanted to do. He said that every single expense that a residential rental property incurs is allowed a 100% tax deduction under the current tax codes; so the use of petitions to reimburse the corporation's costs is an avenue to generate additional income, which he would like the Board to examine. He asked the Board to pass the proposed Rules regarding reasonable reliance and to postpone appeals until the proposed Rules are fully considered.

E. Greg Pennington told the Board that he has lived at 798 Post Street for 42 years, and that he is horrified that Veritas just bought his building. He said that he is not affected by an O&M increase directly, but urged the Commissioners to pass the proposed Rules and Regulations regarding reasonable reliance and to postpone pending appeals. Mr. Pennington told the Board that teachers, chefs, and police officers cannot afford to live in SF, and that he worked for the EPA and gave his life to SF and his living situation is going to be threatened if Veritas gets to keep raising the rent; he can't afford to live in the East Bay nor ride BART. He said that there will be no services in SF. He asked if the Board worked for the people of SF or for rich real estate investors that live all over the world. He thanked the Board for their consideration.

F. Jay Fisher, a tenant at 655 Powell Street, said that his building is not affected by rent increases. He asked the Board to pass the proposed Rules and Regulations to keep rents at a reasonable amount so tenants can continue to stay in the city.

G. Rudy Chew, the owner of 254 8th Avenue (AL190132), thanked the Commissioners and said that the reason for his appeal was that witnesses who were not current tenants nor involved in any incident pertaining to any dates in the tenant petition were brought into the hearing and were not disclosed to him or his attorney prior to the hearing. Mr. Chew said that there was surprise witness testimony from as far back as 6 years prior with only two email complaints from them. He said that there was no prior notice that these witnesses would be

testifying by phone or appearing, and since he personally did not recall incidents off the top of his head, he could not respond with honesty to the testimony at hand, which made him appear guilty of such accusations and was just a simple family argument.

H. Keegan Roberson said that she has lived in SF for 16 years and is a working artist, and if rent is increased beyond the ability to pay, she will lose her art studio and place to live, and she can't afford to move into market rate housing in the city nor Oakland nor anywhere within a reasonable distance. She urged the Board to pass proposed Rules and Regulations regarding reasonable reliance in their current form.

I. Douwe Drayer, a tenant at 99 Lupine Avenue said he has been there since 1998, and until Veritas took over, everything was great. But now, he said, he is on Social Security, and has a limited income and small pension, and there have been rent increases, to which he sees no end. He said that a year ago the rent was \$1,050.00, and now it is \$1,665.00. He asked how people of limited, fixed income afford to stay in the city and live a reasonable life.

J. Nick Gotthardt, a landscape architect, said that he has lived at 1725 Turk Street for 4 years, a year after purchase by Veritas, and he had an O&M petition hearing on September 23, which was confusing, frustrating, and scary. He said that construction workers were sleeping in the building, and one day he came home to his door unlocked and ajar after a mandatory water inspection. Mr. Gotthardt said that to apply for hardship he would have to release very private financial information. He said that he was there representing 5 other tenants in the building, and that last week he went to Supervisor Brown, and they agreed that the Rules regarding reasonable reliance should be revised and any current cases postponed until guidelines are settled upon.

K. Wendy Ralston, a tenant at 1725 Turk Street, said she already had an O&M rent increase in March and now has another coming up. She urged the Commissioners to pass the proposed Rules regarding reasonable reliance in their current form. Ms. Ralston said she has lived in her unit for 25 years, that this was her first apartment, and that her wife lived there, and they raised a child there. She said that the unit above hers was not remodeled either; that passcodes to the gate were only given out to the new neighbors; and that she was asked to give up her garage space. Ms. Ralston said that she won't abandon her parking space because cars are broken into in the neighborhood. She said she is a retail sales consultant who makes just above minimum wage with a 50% tax on her commission, and she intends on living there a long time. She thanked the Commission.

L. Matthew Souzis, a tenant at 322 – 14th Street, said that he is in one of the 24 buildings owned by Veritas where reasonable reliance is an issue in an O&M petition. He said that last month, the rent was \$600.00 more than the prior month, and the large increase caused him major problems. He said that he plans to apply for hardship; and if you don't apply for hardship, then you get evicted; poor people get into situations where you have to borrow to pay additional rent. Mr. Souzis said the building is in a neighborhood that still has a lot of problems and is gentrifying; 17 units are lower income people, and that Veritas' plan is to exploit and gentrify. He asked the Commissioners to pass the proposed Rules in their current form; to postpone pending appeals; and said that to ask for income information from landlords who are passing on debt service is more than fair and reasonable. He thanked the Board for their time.

M. Laurie Martens, who lives at 1146 Taylor Street said she loves her community and does not want to move and nor should she be priced out of her \$2,000.00 a month studio. Ms. Martens said that she grew up here, her immediate family lives here, and she is a small business owner. She asked that increases to the landlord be denied, because if the increase is approved, rent will go up 9.6% every year; her income does not go up by 9.6% every year. She said that by imposing unrealistic rent increases on tenants, landlords knowingly cause people to struggle; Veritas knows this. Ms. Martins said that it is the Rent Board's responsibility to protect from displacement & homelessness. She asked the Board to say no to all O&M rent increases and thanked the Board for their time.

N. John Dessing, a longtime tenant at 720 Baker Street said that Veritas purchased the building 7 years ago, and since then, there have been countless increases for debt service & property tax. He said there is tremendous pressure for himself and his neighbors to live in SF. Mr. Dessing said that Veritas claims that transparency & directness is part of their culture, but it seems it is not. He asked for pending appeals to be postponed until Regulations were decided.

O. Mon Pat Lum of 781 O'Farrell Street said that he lived there for more than a decade, through three different landlords, and this is the first landlord to use an O&M rent increase, and the banked rent increase has been a decent amount of income. He said he doesn't understand what they're doing and why; he hasn't seen improvements; he recently made a request to have a stuck window fixed and they removed it but haven't replaced it.

P. Olivia Glowacki, a resident of SF, urged the Board to pass the proposed Rules regarding reasonable reliance in their current form and to postpone pending O&M appeals regarding reasonable reliance. She said that as an organizer at the Housing Rights Committee she has met the seniors, people with disabilities and families who are burdened by rent increases because of corporate greed of Veritas. She asked the Board to protect tenants from unfair rent hikes while ensuring landlords make a fair profit by passing the proposed Rules. She said that in with the current housing crisis with thousands of people out on the street, they can't afford to put anyone else out.

Q. Adrian Anzaldua, a tenant at 1064 Dolores Street, said that he not going to be directly impacted because his building was bought well before the O&M law changes were passed, but explained that when someone's rent is raised it makes them vulnerable to displacement, and homelessness. He said that he has training in the social determinants of health; that the context in which people live is directly correlated to their health outcomes, and now, laws do not defend them as tenants against these forces raising rent. Mr. Anzaldua said that it's not only a matter of justice, but as a matter of public health to pass the proposed Rules as currently written and to forgo increases currently pending, because we can't afford to put community members out of their homes. He said that if they can't live here, they don't have another place to go.

R. Jose Mejia told the Board that he lives at 102 Cordova Street, First Floor (AL190130), and that the landlord says that he moved into the property before they made a contract; but his brother arrived and the landlord raised the rent, and Mr. Mejia doesn't know why the landlord raised the rent. Jose said that he came to tell the Board that he doesn't have anywhere to go; maybe it will be 2 more years until he can find a place to live.

S. Gigi Reyes told the Board that she is a resident at 99 Lupine Avenue, where an O&M rent increase was granted in August, and was just passing the mortgage on to the tenant. She said that, ironically, Veritas paid the mortgage off in March, and it is unfair to file something that they say is costing them when they've already paid it off. Ms. Reyes said that Veritas wants them to pay a 7% increase, and the 2.6%, and there is a pending seismic upgrade capital improvement petition that they haven't had a hearing on yet. She said she doesn't understand the concept of rent control as to this building; she is a landlord in San Diego and maybe it is her objective not to increase the rent because she wants to keep her tenant. She said that this is unreasonable.

T. Yanci Kuang said that she has lived at 781 O'Farrell Street for 8 years and has been hit with an O&M increase and multiple increases, including a capital improvement and the annual increase, and in her estimation, this is the worst landlord she's had. Ms. Quan said that they use the O&M to raise rents but the elevator was down for weeks and no one came to fix it; when they ask for service, no one responds. She said that there's a property manager on site but he doesn't answer questions and doesn't respond, and they add O&M increase, but questioned what it is going for.

U. Sandy Li Kuang said she has been a tenant at 781 O'Farrell Street for 8 years, and got a rent increase but doesn't understand it because there are maintenance issues: rats in her own unit, and fleas, which has impact on kids and the kids that live in her unit. She said that there is often no heat in her unit and it's often really cold; there are safety issues, mailboxes broken into. She asked where is the operating and maintenance that she's paying for? Finally, she said, the trash is overflowing, and there are so many bad odors, and a lot of the tenants in the building don't speak English as their primary language, so it's hard to communicate and they want someone to give them service & respond.

V. Brad Hirn of the Housing Rights Committee urged the Commissioners to pass the proposed Rules and Regulations regarding reasonable reliance without any amendments. He said that it is far past due that the Rent Board consider the financial status and income of the petitioners who have been requesting these O&M rent increases. Mr. Hirn said that other cities have adopted guidelines, which has been provided at Rent Board hearings; tenants have calculated the landlords' net income and have done the work of researching reliance cases. He said that the Board needs to safeguard excessive rent increases and show fair rate of return for landlords.

W. John Tynan, a tenant at 1998 Golden Gate Avenue, urged the Board to pass the proposed Rules regarding reasonable reliance in their current form, and to postpone current cases. He said that his building is in the hearing process. He said that his understanding of the word "Veritas" is "truth," and the truth about Veritas is that they're gougers, and trying to charge an extra month's rent in a year.

X. Gabe White, the representative for the landlord at 575 O'Farrell Street (AL190151) & 775 Geary Street (AL190120) said that he was appearing on both cases and spoke first regarding 575 O'Farrell Street. He noted that he has now had to appeal 4 separate petitions, three of which are from this specific ALJ, and all of them are for the same landlord. Mr. White said that in this petition there was an item not certified due to an error from a representative of the management company giving an incorrect statement regarding part of the the work, but

if they ALJ had fully reviewed the documentation, she would have seen that the reason she denied it was incorrect; that actually the individual meters were there prior to the work. As to 775 Geary Street, Mr. White said, it is for the same landlord, with the same ALJ. He argued that Ordinance Section 37.2 clearly defines capital improvements as those improvements which materially add value to the property, appreciably prolong its useful life, or adapts it to new uses, and believes that upgrading the power to the entire building and installing new, more efficient and more accurate meters is a benefit to tenants. He stated that the full work should be certified, not just portioning out the individual meter costs. He said that SF has a lot of old buildings with old plumbing and electricity and they want landlords to do the work and upgrade the buildings for the tenants. He knows that there is an argument that tenants have to pay for the work, but the tenants have a recourse, which is filing a petition for decreased housing services, which at least 1 tenant has done. He said he doesn't see a reason why the passthrough shouldn't be granted.

Y. Attorney Alex Volkov, said that he was representing the landlord at 4150 Cabrillo Street (AT190131), but ceded his time because the tenants did not show up so he did not need to respond.

Z. Rosa Coronel, said she lives at 721 Geary Street #21, and has lived in SF for 20 years, and has 2 kids, and the rent is too much for everybody. She said that if she's working only to pay the rent, it is too much to pay, and that these rent increases are too high and she cannot pay them. She said she has to work to pay the rent only, and cannot take care of her kids if she only works to pay rent. She asked the Board to pass the Rules change regarding reasonable reliance as written because she lives in one of these buildings and the former landlords did not engage in this; they did not raise the rent this way.

AA. Vilma Coronel, who lives at 750 O'Farrell Street, said she lived there for 24 years, and the rent is too high with two kids and that she has to help her daughter with her college costs. She said that there's a lot of drug activity and other things around the building.

BB. Sunny Angulo, a legislative aide to Supervisor Aaron Peskin, appeared with Shakirah Simley, a legislative aide to Supervisor Vallie Brown, and Ian Fregosi, a legislative aide to Supervisor Sandra Lee Fewer. Ms. Angulo read a letter authored and submitted by Supervisors Brown, Fewer, and Peskin as follows: "Dear Rent Board Members: Our offices have fielded a recent deluge of constituent complaints regarding onerous pass-throughs in rent-controlled buildings in our respective districts. Last week the Board of Supervisors unanimously adopted a resolution urging this body to adopt fair and objective guidelines for the use of "reasonable reliance" in the evaluation of operating and maintenance pass-through petitions, (File No. 190982). We strongly urge that pending tenant appeals of operating & maintenance (O&M) expense pass-throughs before you should be continued until such time as the Rent Board adopts new guidelines in Section 6.10 of the Rules and Regulations to clarify factors that the Rent Board must take into consideration when assessing the necessity of a landlord's reasonable reliance on an O&M rent increase. We understand that today your staff will be presenting such draft language for you to consider scheduling at a future public hearing. We appreciate staffs work to provide expert analysis on this outstanding issue, and urge the Rent Board to hold off on hearing any appeals that could be impacted by adoption of such guidelines. Tenants should have their appeals of permanent rent increases evaluated with the benefit of this guiding language. In our view, these are guidelines that the Rent

Board should have adopted years ago to afford both tenants and landlords certainty and clarity around permissible increases. We urge the Rent Board to adopt new regulations that uphold the spirit of Chapter 3 7 of the Administrative Code, as it relates to the use of "reasonable reliance." Thank you for your consideration."

CC. Jean Buchanan told the Board that the high cost of rent in SF is downright wrong and it is unfair to put on a new burden of the O&M rent increase. She said that everything that Veritas does is passed through to the tenant. Ms. Buchanan said that there is already a 3% rent increase, and asked why Veritas is so hard-nosed in collecting the 7% rent increase. She said that Veritas should drop the rent increase entirely; they don't need a rent hike, and shouldn't be petty and quibble with tenants over a 7% rent increase- it's a pittance. Ms. Buchanan said the tenants shouldn't be asked to disclose their financial info when Veritas is unwilling to disclose its financial info; it's unfair and insulting, and Veritas has more to disclose than its tenants. She asked the Board to pass the proposed Rules unchanged and stated that if Veritas has a 7% increase, it won't be a big deal to them, but if a tenant has to shell out a 7% rent increase they will surely feel the pinch.

DD. Deepa Varma of the SF Tenants Union thanked the Board for dealing with this issue. She said that this change to the Rent Ordinance passed with overwhelming support at the Board of Supervisors, based on story after story of how these increases are impacting tenants, and are based on landlords buying new buildings that they didn't necessarily need to buy, at speculative prices. Ms. Varma said that they're just asking for a little bit of fairness in terms of the kind of disclosures of whether or not this kind of increase is necessary or whether or not there should be an exemption beyond the annual allowable increase. She asked the Board to adopt the proposed Rules and Regulations as written, as they are fair, and allow landlords to demonstrate hardship. She asked the Board to please hold off on deciding what happens to the tenants until they figure out the Rules.

EE. Karen McMillan, who lives at 655 Powell Street, thanked the Board. She said that when she moved to the City, she had a reasonable reliance and certain expectations that she would always have rent control. Ms. McMillan told the Board that her building used to be owned by West Coast, that they had water bond passthroughs and other passthroughs, but never passed on O&M. She said that they have to pay a higher property tax and thinks that's fair, but they own the building and they get a write off on their taxes and tenants don't get that benefit. She said that there are increases that create a new base, so future increases are on the base, which doesn't seem fair, and it seems that there's an undue expectation that tenants will help fund the purchase of speculative property.

FF. Patrick Shannon, who lives at 20 San Antonio Place in North Beach since 1974, told the Board that he raised 5 children in his apartment, and now it's just him and his wife Kathy there, both of whom have pressing health issues. He said that he had extra charges in rent and rent increases, so he went to Greentree's offices for a copy of his rent ledger, but now there's a pending O&M petition, and his ledger is riddled with errors. Mr. Shannon said that he's worked all his life, has had a good credit rating, and has always paid his bills, and that the landlord charged him a late fee the first month because they didn't tell him where to send his rent, and then they charged him a late fee on the late fee, then again the following month. He said that the landlord then took the rent out 3 times in one month, and then charged him return check fees for the 2 months' rent that they had taken inappropriately, and that if this

gets out, there goes his sterling credit. Mr. Shannon said that these were vicious mistakes, all in the landlord's favor. He said that everyone should request their ledger; they're like black marks on their character; and if they're displaced, they won't be able to rent again.

GG. Tarun Mehta, a tenant at 665 Pine Street, said that his building has been affected by an O&M increase. He urged the Commissioners to pass the proposed Rules regarding reasonable reliance and to postpone the pending appeals. Mr. Mehta said that since Veritas took over, he has seen a significant decrease in the quality of service, and that they also rent out short term rentals in the studios, at almost twice the rent.

V. Consideration of Appeals

A. 102 Cordova Street, First Floor

AL190130

The tenants' petition alleging an unlawful rent increase was granted, and the landlord was found liable to the tenants for rent overpayments in the amount of \$5,000.00. The landlord appeals, contending that he did not come to the hearing because he was sick, and he is a senior with memory problems.

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

B. 2020 Lake Street

AL190155, AL190156

The subtenants' petitions alleging disproportional shares of rent were granted. The ALJ determined that both subtenants paid more than their respective proportional shares of rent from August 1, 2018 through March 31, 2019, and the master tenant was found liable to each subtenant for rent overpayments in the amount of \$1,058.60. The master tenant appeals, arguing that the ALJ miscalculated the amount paid for wireless internet, and therefore the rent overpayments should be reduced, and that the ALJ improperly treated his deductions from the subtenants' security deposits as rent payments.

MSC: To deny both appeals.
(Klein/Gruber: 5-0)

C. 254 – 8th Avenue

AL190132

The tenants' petition alleging decreased housing services was granted. The landlord was found liable to the tenants for rent reductions corresponding with decreased housing services in the amount of \$3,300.00 for noise disturbances from the landlord's unit for the period of February 19, 2018 through January 23, 2019. The landlord appeals, arguing that a surprise witness testified at the hearing whom the landlord was not prepared to cross-examine; that another witness submitted a statement which the landlord was unable to verify or cross-examine; and that most of the incidents were falsely claimed or exaggerated.

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

D. 4150 Cabrillo Street #1

AT190131

The landlord's petition for a rent increase to \$1,032.03 based on comparable rents was granted in part and denied in part. The ALJ found that at the time the tenancy commenced on or about September 1, 1993 a special relationship existed between the former landlord's father and tenant Sally Liang Gan's father because they were cousins. The ALJ additionally determined that, as a result of the special relationship, the initial base rent of \$350.00 was set lower than market rent due to non-market conditions; and that the current landlord is entitled to impose a comparables rent increase. The ALJ further found that the comparable market rent for the unit at the inception of the tenancy on or about September 1, 1993 was \$600.00, less than the \$1,032.03 requested by the landlord in the petition, and that the landlord was entitled to increase the rent to \$916.72 per month. The tenants appeal, arguing that the rent was not set low because of a special relationship; that \$600.00 would not have been a comparable market rate rent for the unit in 1993, and that the annual rent increases should not be compounded in calculating the current rent.

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

E. 2310 Powell Street #3462

AT190118
(cont. from 9/10/19)

The tenant's application for a deferral of a capital improvement passthrough on the basis of financial hardship was denied. The ALJ found that the tenant did not qualify for hardship relief under Rules and Regulations Section 10.15(b)(1)(B) because the tenant's rent was less than 33% of the monthly gross household income in both 2018 and 2019. On appeal, the tenant presents income and expense documents for his business for 2018 and 2019, and proof of his wife's Social Security income.

MSC: To accept the appeal and remand the case to the ALJ to consider the tenant's adjusted gross income as his gross personal income, as opposed to considering the tenant's gross business income as his gross personal income, with a hearing to be held only if necessary.
(Mosbrucker/Qian: 5-0)

F. 575 O'Farrell Street

AL190151

The landlord's appeal was filed 15 days late because the landlord's representative claimed that he never received the decision due to a mail delivery error.

MSC: To find good cause for the late filing of the appeal.
(Klein/Qian: 4-1; Mosbrucker dissenting)

The landlord's petition for a capital improvement passthrough to 27 of 47 units was

granted in part and denied in part. The ALJ certified the costs of common area interior painting; exterior painting of the entire building; and replacement of the phone entry system. The ALJ did not certify the cost of a new electrical service because the cost included work to sub-meter the electrical service, which did not benefit the tenants and was not broken out from the total cost of the work. On appeal, the landlord argues that neither the documents submitted with the petition nor the estimator report reference any sub-metering work; and that the electrical work was only for an electrical upgrade and moving the panels from one location to another, but did not change from a master meter to individual meters.

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

G. 775 Geary Street

AL190120
(cont. from 9/10/19)

The landlord's appeal was filed 5 days late because the landlord's representative believed that the appeal was due 15 days from the date that he received the decision, rather than 15 days from the date it was mailed.

MSC: To find good cause for the late filing of the appeal.
(Qian/Hung: 4-0)
(Note: the untimely filing issue was voted upon at the 9/10/19 meeting.)

The landlord's petition for a capital improvement passthrough to 22 of 36 units was granted in part and denied in part. The ALJ certified the costs of common area interior painting; replacement of the phone entry system; relocation of the water service pipes; and replacement of the sewer line and house trap. The ALJ did not certify the cost of a new electrical service because the cost included work to sub-meter the electrical service, which did not benefit the tenants and was not broken out from the total cost of the work. On appeal, the landlord argues that the new electrical service meets the definition of a capital improvement, and neither the Ordinance nor the Rules and Regulations require that the work be for the tenants' benefit in order for the cost to be certified.

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

H. 20 Romolo Place #B, #4, #6, #8, #9, #10, #11 & #12

AT190133 - AT190140

The landlord's petition seeking a 7% rent increase due to increased operating and maintenance (O&M) expenses to the tenants in 10 of 15 units was granted. The ALJ found that the landlord had met its burden of proving 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 through an O&M rent increase. The tenants in units B, 4, 6, 8, 9, 10, 11, and 12 appeal, arguing that the landlord did not reasonably rely on its ability to pass through the costs of debt service at the time of its purchase of the property.

MSC: To continue the consideration of these appeals to the January 2020 meeting.
(Mosbrucker/Qian: 5-0)

I. 977 Pine Street #3, #203, & #4

AT190150 – AT190153

The landlord's petition seeking a 7% rent increase due to increased operating and maintenance (O&M) expenses to the tenants in 10 of 24 units was granted. The ALJ found that the landlord had met its burden of proving 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 3, 203, and 4 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.

MSC: To continue the consideration of these appeals to the January 2020 meeting.
(Mosbrucker/Qian: 5-0)

J. 99 Lupine Avenue #101, #102, #203, #303, #304, #308, #401, #403, & #502

AT190141 - AT190149

The landlord's petition seeking a 7% rent increase due to increased operating and maintenance (O&M) expenses to the tenants in 13 of 25 units was granted. The ALJ found that the landlord had met its burden of proving 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 101, 102, 203, 303, 304, 308, 401, 403, and 502 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.

MSC: To continue the consideration of these appeals to the January 2020 meeting.
(Mosbrucker/Qian: 5-0)

K. 642 Alvarado Street #109, #203, #204, #206, #208, & #311

AT190091 - AT190096
(cont. from 9/10/19)

The landlord's petition seeking a 7% rent increase due to increased operating and maintenance (O&M) expenses to the tenants in 21 of 34 units was granted. The ALJ found that the landlord had met its burden of proving 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 109, 203, 204, 206, 208, and 311 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.

MSC: To continue the consideration of these appeals to the January 2020 meeting.
(Mosbrucker/Qian: 5-0)

L. 665 Pine Street #204, #302, #503, #701, #703, #704, #901, #902, #903, #904, #1001, #1002, #1003, #1004, & #1100

AT190097 - AT190111
(cont. from 9/10/19)

The landlord's petition seeking a 7% rent increase due to increased operating and maintenance (O&M) expenses to the tenants in 21 of 40 units was granted. The ALJ found that the landlord had met its burden of proving 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 204, 302, 503, 701, 703, 704, 901, 902, 903, 904, 1001, 1002, 1003, 1004, and 1100 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.

MSC: To continue the consideration of these appeals to the January 2020 meeting.
(Mosbrucker/Qian: 5-0)

M. 41 Lafayette Street

AT190112
(cont. from 9/10/19)

The landlord's petition seeking a 7% rent increase due to increased operating and maintenance (O&M) expenses to the tenants in 4 of 12 units was granted. The ALJ found that the landlord had met its burden of proving 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 tenant in unit 41 appeals, 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.

MSC: To continue the consideration of this appeal to the January 2020 meeting.
(Mosbrucker/Qian: 5-0)

IV. Remarks From the Public (continued)

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

VI. Communications

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

- A. Updated Rent Board litigation status report.
- B. Articles from the SF Examiner, SF Weekly, SF Public Press, and CurbedSF.
- C. Workload statistics for the month of August 2019.

VII. Director's Report

Executive Director Collins clarified to the Board that there is a four-month backlog of hardship applications, not a multi-year backlog as some reports have stated. Regarding outreach, Executive Director Collins told the Board that staff member Josh Vining staffed Sunday Streets in Western Addition on October 2, and that staff would be present at the upcoming Chinatown Resource Fair in Portsmouth Square on October 19, and then at Sunday Streets in the Excelsior on October 20. Executive Director Collins informed the Board that a complaint was filed with the Ethics Commission against Commissioner Wasserman, who was advised by counsel not to attend Rent Board meetings until the complaint was resolved. Executive Director Collins informed the Board that state Assembly Bill (AB) 1482 was signed by Governor Newsom on October 8, which left many questions about its implementation and applicability of Rent Ordinance jurisdiction over approximately 20,000 additional units. Executive Director Collins directed the Board to the updated litigation status report and emphasized its greater detail than previous reports.

Commissioner Isbell announced the issue of AB1482 signing which he had attended in Oakland.

VIII. Old Business

A. Rules and Regulations Clean Up

This item was continued for discussion to the November 12, 2019 meeting.

B. Proposal to Amend Rules and Regulations Section 6.10 – Operating and Maintenance Expenses – Evidence of Reasonable Reliance

Commissioner Isbell continued his discussion from the September 10, 2019 meeting, at which he proposed amending Rules and Regulations Section 6.10 (e)(1)(B) to define the term “reasonable reliance” in the context of an Operating and Maintenance Expense petition. Specifically, he directed staff to prepare draft Regulations stating that in order to prove reasonable reliance, a landlord must demonstrate one of the following: 1) by landlords disclosing enough actual financial information to show that the requested rent increases were necessary to pay off the claimed Year 2 expenses, taking into account the rental income of all the units at the property; 2) by landlords showing they would incur a financial hardship without the rent increases; and/or 3) by landlords showing that they would not have pursued the acquisition of the property had the ability to passthrough increased debt service and property tax costs been unavailable to them. Pursuant to Commissioner Isbell’s instructions, Rent Board staff prepared draft amendments to Rule Section 6.10 (“Draft 1”) for the Commissioners’ review. At the October 8, 2019 meeting, the Commissioners discussed Draft 1 and Commissioner

Mosbrucker orally proposed some reviews to the language. Before the discussions concluded, Commissioner Isbell presented an alternative written draft of Rule Section 6.10 ("Draft 1, Version 2"), and Commissioner Klein requested that the landlord commissioners be given time to review the new language. At the conclusion of the discussion, the following motion was made and voted upon:

MSC: To continue the discussion of Old Business Item B. Proposal to Amend Rules and Regulations Section 6.10 at a special meeting to be held on November 4, 2019, or November 5, 2019, or November 6, 2019.
(Klein/Mosbrucker: 5-0)

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

This item was continued for discussion to the November 12, 2019 meeting.

IX. New Business

(There was no New Business.)

X. Calendar Items

November 4, 2019 – Special Meeting

A. Old Business

1. Proposal to Amend Rules and Regulations Section 6.10 – Operating and Maintenance Increases – Evidence of Reasonable Reliance

November 12, 2019 – Regular Meeting

A. Consideration of Appeals

15 appeal considerations

B. Old Business

1. Rules and Regulations Clean Up
2. Proposed Amendment to Rules and Regulations Regarding Tenant's Permanent Place of Residence

XI. Adjournment

President Gruber adjourned the meeting at 8:52 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.