



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
ASHLEY KLEIN
POLLY MARSHALL
CATHY MOSBRUCKER
KENT QIAN
DAVID WASSERMAN

Tuesday, December 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: Crow; Dandillaya; Gruber; Klein; Marshall; Mosbrucker;
Wasserman.
Commissioners not Present: Hung; Qian.
Staff Present: Collins; Gartzman; Koomas; Varner.

President Gruber informed the Board that J.J. Panzer resigned from the commission on December 10, 2018, and that the vacant seat he left would be filled soon.

III. Approval of the Minutes

MSC: To approve the Minutes of November 13, 2018.
(Mosbrucker/Wasserman: 5-0)

IV. Remarks from the Public

A. Shari Jackson, the landlord at 1483 Newcomb Avenue (AL180090), told the Board that the appeal was filed late because the decision was returned to the Rent Board due to a wrong zip code. Ms. Jackson said that the very same night after she got a call from the Rent Board that the petition was denied she drafted the appeal and the very next day she filed it. She said that the petition checklist said every item must be completed and marked yes, so after the insurance company discovered that the entire subfloor needed to be removed, she tried to get the permit but was told she would have to hire an architect. She said that she hired an architect one day before a business trip and was told they would have the information for her petition when she got back, but it wasn't until later that week that she was given the packet and gave it to the Rent Board. Ms. Jackson also said that the tenant's

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attorney had mischaracterized part of her appeal, and that she never accused the ALJ of lying. Rather, she said, her appeal stated that she believed the ALJ erred.

B. Erika Frick, the tenant at 845 California Street #801 (AT180092), said she imagined that a decision may have already been made based on the papers already filed. She said that there is no way in 3 minutes to convey how much help the tenants need with this landlord to get basic repairs done; they've been asking for help over and over again. Ms. Frick said that the landlord has made clear that they aren't going to help, and they have made life a living hell. She said that the moth infestation was preventable, and she essentially had to do the landlord's job for them- find the infestation and call three pest control companies. She said that she is here because this is not specific to her, rather many other tenants have problems, and she needs help with this landlord.

C. Pablo Villegas, the master tenant at 1152 Treat Avenue (AL180089), said that he appealed because he thought there was an injustice. He said that he has subtenants, and one of them claimed that he had abused him, and the Rent Board found in the subtenant's favor. Mr. Villegas said that with that decision he is going to have to pay some money, because they think that he has made money, and that is not true, and that is the reason that he is appealing.

D. Chris Tang, the tenant at 337 – 10th Avenue #6 (AT180087) said his appeal was untimely because he wasn't aware that he had an opportunity to appeal. He told the Board that at the core is a very expensive electrical upgrade throughout the building, and that it wasn't properly conveyed what was allocated to each unit. The tenant said that the newly renovated units benefit with new appliances, but older units like his do not and that wasn't evaluated when distributing those costs across all units.

V. Consideration of Appeals

A. 1152 Treat Avenue

AL180089

The subtenant's 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 \$4,326.31 and determined that the subtenant's proportional share of the rent is \$516.20, plus \$25.00 for cable and \$45.00 for PG&E. On appeal, the master tenant states that he did not receive the notice of hearing until after the hearing, and submits a Declaration of Non-Receipt of Notice of Hearing or Decision.

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

B. 751 Page Street #6

AL180093

The subtenant's 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 \$1,103.95 and determined that the subtenant's proportional share of the rent is \$1,117.58. On appeal, the master tenant contends that the ALJ erred by stating that the subtenant resided in the unit after October 31, 2017; that the total duration of the subtenancy was

six months and not seven; and that the written subtenant agreement should be honored regarding the value of the amenities.

MSC: To accept the appeal and vacate the decision.
(Mosbrucker/Wasserman: 5-0)

C. 1614 Washington Street

AL180091

The subtenant's 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 \$10,234.43. On appeal, the master tenant contends that the ALJ erred by providing inaccurate interpretations of her statements; by dividing the rent by number of occupants, not room size; and by setting the valuation of services provided by the master tenant too low.

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

D. 845 California Street #801

AT180092

The tenant's appeal was filed 32 days late because she was out of town on an extended business trip when the decision issued.

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

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

The tenant's petition alleging decreased housing services was granted in part and denied in part. The landlord was found liable to the tenant for rent reductions for clothes moths and failure to repair radiators in the total amount of \$6,887.50. The ALJ further found that the condition of the common areas unrelated to the presence of clothes moths, and the landlord's closure of a trash chute do not constitute substantial decreases in housing services; that the apprehension of thieves in the building is a police enforcement duty and is not a housing service provided by the landlord or reasonably expected under the circumstances and not one that is connected with the use or occupancy of a rental unit; and that the tenant failed to meet her burden of proving that use of the roof for recreational purposes was a housing service provided by the landlord at the commencement of the tenancy. On appeal, the tenant argues that the monthly rent reduction amount granted by the ALJ for the clothes moth infestation was too low; that a rent reduction should be granted for dirty windows in the unit, even though the tenant withdrew this item at hearing; and that the landlord failed to give the tenant accurate credit for the heat problem in a neighboring unit.

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

E. 2055 Sacramento Street

AL180088

The landlord's petition for a capital improvement passthrough to 50 of 86 units was granted in part and denied in part. The ALJ certified the cost of the garage gate replacement, but denied the cost of an entry ramp because the ADA-required ramp and handrail work only modified portions of the property that are open to the general public, and provided no particular benefit to the residential tenants over existing conditions. The landlord appeals the ALJ's decision to deny certification of the ramp and handrail costs, contending that the ramp is the main form of entry for residents of the building; that all residents of the building have benefitted from the ramp; that the ramp materially adds value to the property and has adapted it for new uses; and that two tenants had asked about installing a ramp as a reasonable accommodation for their disabilities.

MSC: To recuse Commissioners Mosbrucker and Wasserman from the consideration of this appeal.
(Dandillaya/Gruber: 5-0)

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

F. 337 – 10th Avenue #6

AT180087

The tenant's appeal was filed 14 days late because the tenant's representative was required to take time off from paid work during the 15 calendar days following the issuance of the decision.

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

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

The landlord's petition for a capital improvement passthrough to 5 of 12 units was granted. The ALJ certified the cost of the new door locks; Residential Energy Conservation Ordinance (RECO) work of toilets, faucet and angle stops, smoke detectors, smoke and CO2 alarms, and weather stripping; underground storage tank replacement; electrical upgrade; and replacement of the entry system. One tenant appeals the ALJ's decision, arguing that that the decision in this case did not reach the same conclusion as in Case L170251 at 300 Buchanan Street, another property managed by the same property manager, and also a capital improvement passthrough for an electrical upgrade.

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

G. 1483 Newcomb Avenue #B

AL180090

The landlord's appeal was filed 1 day late because she received the decision late due to a Rent Board mailing error.

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

The landlord's petition for an extension of time to complete capital improvement work was denied on the grounds that the landlord failed to timely file the petition immediately after it was apparent that work would take longer than three months to complete. On appeal, the landlord argues that the petition was timely filed, and provides a more detailed narrative of events between May 29, 2018 and June 25, 2018.

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

H. 1533 Mason Street

AL180086

The landlord's petition for a rent increase to \$3,400.00 based on comparable rents was denied. The ALJ found that a special relationship existed at the commencement of the subject tenancy between former owner Richard Lee and tenant respondent Pan based on the fact that they were co-workers and had a social relationship outside of work. The ALJ also found that the landlord did not meet his burden of proving that the initial rent of \$1,625.00 on the subject unit was set very low in August 2016. The landlord appeals, contending that he met his burden of proving that the initial rent was set below market rate because: only the utilities were negotiated, not the rent; that although the two-bedroom unit at 1529 Mason was rented for \$2,286.00 in 2015, this does not establish that the rent for 1533 Mason was not set very low; and the comparison units provided by the landlord were from similar market areas, adjusted for amenities and supremacy of location, despite the difference in zip code.

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

IV. Remarks From the Public (continued)

A. Pablo Villegas, the master tenant at 1152 Treat Avenue (AL180089), said that he doesn't want to offend anyone, but he doesn't know what system the decision is based on in that now he is damaged as he is paying more than the subtenants. He said that the decision says that he was abusing the subtenant with the rent amount, and the rent has increased every year, and of course it is more than he paid ten years ago. Mr. Villegas said that he doesn't set the price, the market sets the price and one is free to choose if he wants to pay or not. Mr. Villegas said that when he told the subtenant that his family was joining him, he had 90 days to go elsewhere. He said that now if he has to pay much more than he pays in rent, he is economically damaged. Mr. Villegas said that he supposedly rented this apartment in order to live better, and now he will have to leave the apartment himself, and that he presented all the tables showing he was paying more than anybody else.

VI. Communications

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

- A. Workload statistics for the month of October 2018.
- B. Copy of a letter from attorney Alex Lemieux regarding owner move-in (OMI) regulations.
- C. Articles from the S.F. Chronicle, S.F. Examiner, MissionLocal and S.F. Weekly.

VII. Director's Report

Executive Director Collins informed the Board that J.J. Panzer is no longer a commissioner. The seat that was occupied for a short time by Mr. Panzer had previously been occupied by Neveo Mosser and is now vacant. Executive Director Collins told the Board that staff members Jennifer Rakowski, Rene Juarez and Josh Vining conducted a training for new Tenants Union volunteers on November 15, and that staff will train SF Apartment Association members on what to expect when filing tenant petitions and understanding the mediation and arbitration process on January 24, 2019.

Commissioner Wasserman discussed the appointment of J.J. Panzer, explaining that Mr. Panzer was the sole proprietor of his company, and distinguished it from law firms that have business appearing before the Rent Board. Commissioner Wasserman thanked Mr. Panzer for his service.

VIII. Old Business

A. Proposal for new Rules and Regulations Regarding the Definition of Bad Faith

At the outset of the discussion regarding a proposal for new Rules and Regulations regarding the definition of bad faith, Commissioner Mosbrucker brought a motion. Discussion followed, the Board voted, and the motion failed.

MSF: To request staff to prepare draft Rules and Regulations regarding the definition of bad faith.
(Mosbrucker/Marshall: 2-3; Dandillaya, Gruber, Wasserman dissenting)

IX. New Business

(There was no new business.)

X. Calendar Items

January 22, 2019

A. Consideration of Appeals

11 appeal considerations

XI. Adjournment

President Gruber adjourned the meeting at 7:01 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.