



Robert A. Collins  
Executive Director

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DAVID WASSERMAN

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

Tuesday, December 12, 2017  
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 6:06 p.m.

President Gruber spoke regarding the untimely passing of Mayor Ed Lee early in the morning of December 12, stating that the Commissioners' hearts are with Mayor Lee's family during this time. Commissioners Abe and Marshall and Executive Director Collins offered heartfelt words regarding Mayor Lee's commitment to the people of San Francisco as a housing and civil rights advocate, and Mayor Lee's contributions to the formation of the Rent Ordinance.

II. Roll Call

Commissioners Present: Abe; Crow; Gruber; Hung; Marshall; Mosbrucker; Mosser; Qian; Wasserman.

Commissioners not Present: Dandillaya.

Staff Present: Collins; Gartzman; Koomas; Varner.

Commissioners appearing on the record late: Qian, 6:17 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 14, 2017 and November 21, 2017.  
(Marshall/Abe: 5-0)

IV. Remarks from the Public

A. Saul Ferster, the attorney for the landlord at 1343 Divisadero Street #1(AT170099) told the Commissioners that the appeal should be denied and the Administrative Law Judge's (ALJ) decision affirmed. He said that the initial rent was set very low at \$550.00, and while it was true that \$1500.00 was written into the lease, the building was managed by partners, who were attempting to buy the landlord out while he was going through treatment for a major illness. Mr. Ferster stated that \$1500.00 was not an original rent, it was a projected future rent based on

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when work would be finished, which would have been illegal anyway because it never demanded and the tenant never paid it. He said that ignoring all of that, the ALJ found that even \$1500 was very low and the \$1825.00 the ALJ found was roughly 22% above that.

B. Cassandra Mehlum, the tenant at 1025 Steiner Street #9 (AT170094) thanked the Board for giving her the opportunity to speak. She said there was a misalignment of decisions, benefits and costs as permitted by the Decision. Ms. Mehlum stated that with the sale of a property, property taxes and debt service are within the discretion and control of the new owner, and by allowing a new owner to pass through an increase in property taxes and debt service, the tenant unwillingly bears the cost of the buyer's decision, with no added benefit to the tenant. She explained that debt is a financially engineered enhancement to an investor's return, and the landlord in this case was incentivized to place debt on a property because commercial mortgage interest has favorable tax treatment on the federal level. Ms. Mehlum further stated that in a city with some of the highest rents in the country, a 7% rent increase can quickly can impact a person's ability to continue paying for an apartment they once thought was in their budget.

#### V. Consideration of Appeals

##### A. 46 Alvarado Street #2

AT170097

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. On appeal, the tenant claims that she did not receive the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

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.  
(Marshall/Gruber: 5-0)

##### B. 258 Central Avenue #A

AT170103

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. On appeal, the tenant claims that she did not receive the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

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)

##### C. 4077 – 24<sup>th</sup> Street, Back Cottage

AL170104

The tenant's petition for decreased housing services was granted, and the landlord was found liable to the tenant in the amount of \$1,980.00 for loss of electricity and hot water. The landlord appeals, arguing that the lack of electricity as a result of circuit breaker

failure was due to the tenant's excessive use, that the tenant purposely called the Department of Building Inspection in order to delay repairs, and that the landlord should not have to supply unlimited electricity to the tenant.

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

D. 103 Balboa Street

AL170100

The subtenants' petition alleging a substantial decrease in housing services and a disproportional share of rent was granted in part and denied in part. The ALJ found the master tenants liable to the subtenants in the amount of \$330.00 for lack of heat and found that the subtenants did not meet their burden of proving that they paid a disproportional share of the total rent at any time during their tenancy. On appeal, the master tenants argue that during the time period in question, the subtenants had access to the heater, the heater was functional, that the subtenants used the heater, and that the master tenants were residing at their daughter's house and therefore could not control the thermostat.

MSC: To accept the appeal and remand the case for the ALJ to determine whether the master tenant allowed the subtenant to use the heater after the Notice of Violation was abated, with a hearing to be held only if necessary.  
(Marshall/Mosbrucker: 5-0)

E. 1878 Greenwich Street

AT170101

The subtenant's petition alleging a disproportional share of rent was granted. The ALJ found the master tenant liable to the subtenant in the amount of \$2,200.00. The subtenant appeals, arguing that her proportional share of the rent should have remained \$1,500.00 when the fourth roommate moved out because she did not agree to pay an increased rent and preferred having a fourth roommate.

MSC: To accept the appeal and remand the case to the ALJ to determine whether there were four occupants in the unit at the inception of the tenancy, with a hearing to be held only if necessary.  
(Marshall/Mosbrucker: 5-0)

F. 1422 Waller Street

AL170105, AT170106

The subtenant's petition alleging a disproportional share of rent was granted. The ALJ found the master tenant liable to the subtenant in the amount of \$4,133.40. The master tenant appeals, arguing that the living room was not exclusively his, but a common area, and therefore the division of rent is in error, that the value assigned to common area furnishings is incorrect, and that the Rent Board should not have jurisdiction over a matter where the tenant or subtenant are no longer in occupancy. The subtenant also appeals, arguing that the ALJ erred in finding equal division as a reasonable method of allocation

amongst the master tenant and subtenants, since the living room was exclusively used by the master tenant.

MSC: To deny both the master tenant's appeal and the subtenant's appeal.  
(Mosbrucker/Marshall: 5-0)

G. 1343 Divisadero Street #1

AT170099

The landlord's petition for a rent increase based on comparable rents was granted. The ALJ found that a special relationship existed between the landlords and the tenant because they were friends, and the initial rent was set very low as result of this relationship. The tenant appeals, arguing that the ALJ abused her discretion by determining that an initial rent of \$1,500.00 for the subject unit is considered "very low" for the purposes of the petition, when the initial monthly rent for a comparable unit was only \$95.00 more, and that the ALJ should have made a determination as to the tenant's initial monthly rent.

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

H. 1025 Steiner Street #9

AT170094

The landlord's petition seeking a 7% rent increase based on increased operating and maintenance (O&M) expenses to the tenants in 9 units was granted in part and denied in part. The ALJ found the landlord met its burden of proving an increase in O&M expense costs from Year 1 to Year 2 and that the tenants did not raise any valid objections or defenses to the petition under the Ordinance or Regulations. The tenant in unit #9 appeals, raising certain policy objections to the fairness of Regulation 6.10 and also claims the passthrough increased her rent above market rate.

MSC: To deny the appeal.  
(Abe/Gruber: 3-2; Marshall, Mosbrucker dissenting)

## VI. Communications

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

- A. Memo from Alisa Somera, Legislative Deputy Director of the Board of Supervisors' Rules Committee, regarding legislation introduced by Supervisor Sheehy to establish an Office of Tenant Assistance.
- B. Articles from S.F. Chronicle, SFGate, 48Hills, MissionLocal, Business Insider, SF Business Times, Multihousing News Online, and CurbedSF.

## VII. Director's Report

Executive Director Collins told the Commissioners that he sent them a link to the one-page strategic plan summary published by the Mayor's office. Executive Director Collins informed the Commissioners that the Mayor's directive for the Fiscal Year 2018-19 budget reduction does not apply to the Rent Board since the Rent Board is not a General Fund department, but rather an enterprise department funded almost entirely by the Rent Board Fee. Executive Director Collins thanked the Commissioners for their work on the Regulations for the new owner move-in law and explained that there would be upcoming database, forms, and operating system changes. He also informed the Commission that there would be additional hiring announcements in the coming month. Executive Director Collins drew the Commissioners' attention to the proposed legislation included in their Communications regarding a new office of tenants' assistance for tenants facing eviction proceedings. Executive Director Collins told the Commissioners he appeared at the Board of Supervisors' Land Use Committee Meeting on November 27 for the Housing Balance Report and that staff member Ben Ng conducted outreach with Mayor's Office of Neighborhood Services in Chinatown on November 16, and reminded the Commissioners to complete their annual harassment training.

## VIII. Old Business

### A. Amendments to the Ordinance regarding owner move-in evictions and possible Regulations

SALJ Gartzman discussed one issue with the Board, regarding the filing of subsequent Statements of Occupancy. She inquired as to whether staff would be able to indicate on the Statement of Occupancy form that the form may be filed within 75 – 90 days after the previous Statement of Occupancy has been filed, rather than just 90 days. The Commissioners agreed that this would be acceptable language to put on the form.

## IX. Calendar Items

January 16, 2018  
10 appeal considerations

## X. Adjournment

President Gruber adjourned the meeting at 7:29 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.**