



London N. Breed
Mayor

Christina A. Varner
Executive Director

DAVID GRUBER
PRESIDENT

DAVE CROW
JULIET HALEY
RICHARD HUNG
ASHLEY KLEIN
CATHY MOSBRUCKER
KENT QIAN
KION SAWNEY
ARTHUR TOM
DAVID WASSERMAN

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

Tuesday, September 13, 2022
at 6:00 p.m.

Remote Meeting via video and teleconferencing
<https://bit.ly/3TRNd2H>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2486 671 9128

On February 25, 2020, Mayor London Breed declared a state of emergency in regards to COVID-19. Thereafter, Governor Newsom issued a statewide order for all residents to shelter-in-place, and following that, numerous orders of the county health officer and supplemental Mayoral proclamations and directives were issued to slow and reduce the spread of COVID-19.

In several Mayoral proclamations and memorandums, the Mayor and City Attorney detailed emergency orders suspending select laws applicable to boards, commissions, and other policy bodies, and permitting boards and commissions to meet, so long as the meetings are held remotely. Additionally, at its August 9, 2022 meeting, the Rent Board Commission made findings to allow teleconferenced meetings under California Government Code Section 54953(e). Therefore, the Rent Board Commission meetings will be held via videoconferencing and will allow for remote public comment until further notice.

The Commission strongly encourages interested parties to submit their comments in writing, by 12:00 noon on September 13, 2022 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3TRNd2H>. The public comment call in instructions are available on the Rent Board's website at <https://sfrb.org/commission-meetings>.

Please visit the Rent Board's website for ongoing updates during the COVID-19 emergency.

I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Sawney read the Ramaytush Ohlone Land Acknowledgment.

♻️ Printed on 100% post-consumer recycled paper

III. Roll Call

Commissioners Present: Crow; Gruber; Haley; Hung; Klein; Sawney; Tom; Wasserman.

Commissioners not Present: Mosbrucker; Qian.

Staff Present: Benitez; Brandon; Flores; Jue; Koomas; Varner.

IV. Approval of the Minutes

MSC: To approve the minutes of August 9, 2022.
(Wasserman/Crow: 7-0, Haley abstained)

V. Remarks from the Public

A. Jason Henderson, the tenant at 300 Buchanan Street, #503 (AT220028), stated that he was working in Europe over the summer and the hearing was scheduled during his absence in July. He states that he is represented by Brad Hirn of the Housing Rights Committee and that he hopes the Board will remand the case for a hearing because it concerns an important issue for the occupants of the building.

B. Alfredo Gregory, the tenant at 1221 Jones Street, #6D (AL220032), stated that he submitted a written rebuttal to the landlord's appeal, but that he wanted to reiterate his belief that the landlord's justification for filing a late appeal was insufficient and that a similar claim filed by another tenant in the same building was already upheld by the Board.

C. Laura Campbell, the attorney for the landlord at 300 Buchanan Street, #503 (AT220028), stated that the tenant appellant arranged his summer travel plans after filing a request for a hearing, knowing that he would be out of town between May and August, and that the tenant's written objection to the landlord's ADU Declaration is unrelated to the Rent Board's determination. She also stated that the Planning Code requires the Rent Board to expedite the issuance of its decision in such matters.

D. Brad Hirn, the non-attorney representative for the tenant at 300 Buchanan Street, #503 (AT220028), urged the Commissioners to accept the tenant's appeal. He stated that the tenant was out of the country on the day of the hearing and that he was unaware the hearing had been scheduled until receiving an email from the landlord's attorney the day before the hearing. He stated that he was unable to attend on such short notice, and although he immediately requested a postponement, it was denied notwithstanding his demonstration of good cause.

E. Jamie Bombard, the attorney for the landlord at 1221 Jones Street, #6D (AL220032), apologized for the late filing of the appeal, which she stated was caused by a calendaring mistake that occurred while she was out of town due to a death in her family. She told the Board that the ALJ's decision constitutes an abuse of discretion and was not supported by the evidence. She stated that any decrease alleged by the tenant was not substantial and that the virtual doorman replaced all the housing services provided by the prior in-person

doorman. She further stated that the virtual doorman service actually enhances tenant housing services; that the tenant failed to carry their burden of proof in this case; and that the decision unfairly punishes the landlord for implementing technological improvements in the building.

VI. Consideration of Appeals

A. 300 Buchanan Street, #503

AT220028

The tenant's objection to the landlord's ADU Declaration was dismissed due to the tenant's non-appearance at the hearing. On appeal, the tenant's representative contends that the tenant was out of the country on the date of the hearing and that the tenant's representative did not receive notice of the hearing because the tenant accidentally omitted his contact information from the petition documents.

Commissioner Klein recused herself from this matter because her law firm represents the landlord.

MSC: To accept the appeal and remand the case for a new hearing. Should the tenant again fail to appear, no new hearings will be scheduled.
(Crow/Sawney: 4-1 Gruber dissenting)

B. 600 Moscow Street, #1

AL220029

The tenants' petition claiming an unlawful rent increase was granted and the landlord was found liable to the tenants in the amount of \$4,313.97 for rent overpayments. On appeal, the landlord asks the Board to confirm his calculation of the tenants' maximum lawful rent, which is different than the amount calculated by the ALJ in the Decision.

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

C. 551 Castro Street

AT220034

The tenant's petition claiming an unlawful rent increase and requesting a determination of the lawful rent was denied. The ALJ found that the subject unit is the sole residential unit at the property, and that the tenancy is therefore exempt from the rent increase limitations of the Ordinance. The tenant appeals, arguing that the permit history for the property indicates that it consists of two residential units.

Commissioner Wasserman recused himself from this matter because he represents the landlord's property manager and had some involvement in the dispute before the tenant's Rent Board petition was filed.

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

D. 1801 Beach Street, #204

AL220030

The tenant's petition claiming an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$478.65 for rent overpayments. On appeal, the landlord claims that the decision is unfair and that the ALJ misinterpreted the terms of the parties' written agreement.

Commissioner Wasserman recused himself from this matter because he represented the landlord in a prior matter.

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

E. 1499 Sutter Street, #106

AL220031

The tenant's petition alleging an unlawful rent increase and decreased housing services was granted. The ALJ determined that the tenant's lawful base rent was \$2,800.00 and found that the landlord was liable in the amount of \$300.00 per month from August 1, 2021 until such time as the tenant is permitted to resume use of the building's dining room for meal plan access or meals are provided by room service for no additional cost. On appeal, the landlord states that he did not receive notice of the hearing, and that the attorney who appeared on his behalf was unfamiliar with the case and should have been granted a postponement.

MSC: To accept the appeal and remand the case for a new hearing. Should the landlord again fail to appear, no new hearings will be scheduled.
(Wasserman/Gruber: 4-1 Crow dissenting)

F. 1221 Jones Street, #6D

AL220032

The landlord's appeal was filed 4 days late because the landlord's attorney was away from the office due to a family emergency.

Commissioner Klein recused herself from this matter because her law firm represents the landlord.

Commissioner Wasserman recused himself from this matter because he represents the property manager in other matters.

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

The tenant's petition alleging decreased housing services was granted, and the landlord was found liable to the tenant in the amount of \$1,803.75 for replacement of the front desk concierge with a virtual doorman service. The landlord appeals, arguing in part that the removal of the front desk concierge does not constitute a substantial decrease in housing services.

MSC: To deny the appeal.
(Crow/Sawney: 3-2, Gruber and Tom dissenting)

G. 1341 Union Street, #10

AT220033

The tenant's appeal was filed 2 days late because he did not immediately receive the Decision in the mail and he attempted to submit his appeal by email on an earlier date but the submission was not received by the Rent Board.

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

The tenant's petition alleging decreased housing services was granted in part and denied in part. The landlord was found liable for rent reductions in the amount of \$7,025.00 for the loss of roof access. The ALJ further found that the tenant failed to meet his burden of proving that the landlord's response to a moth infestation in his unit was unreasonable, or that the condition constituted a substantial decrease in housing services. On appeal, the tenant claims that the moth infestation in his unit is ongoing, requires a building-wide systemic approach to abatement that the landlord has refused to provide, and that the landlord made false claims and lacks credibility.

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

H. 340 Spruce Street

AT220026

The tenants' appeal was filed 1 day late because they submitted the appeal by email after 5:00 p.m., and did not realize it would be marked as received the following business day.

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

The tenants' petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act was denied. The ALJ found that the last original occupant no longer permanently resided at the subject unit, and that the remaining occupant was a subtenant who had no direct landlord-tenant relationship with the owner. On appeal, the tenants contend that the subject unit remains the permanent residence of the original occupant, and that the instant petition should have been consolidated with the tenants' decrease in housing services petition.

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

V. Remarks from the Public (cont.)

There were no further remarks from the public.

VII. Communications

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

- A. Articles from the SF Chronicle, and SF Standard.
- B. Monthly workload statistics for July 2022.
- C. Updated Litigation Status Report.

VIII. Director's Report

A. Rent Board Operations Update During COVID-19 Health Emergency

Executive Director Varner told the Board that the office remains open to the public at reduced hours for the past month, in line with City guidance and still with support from the public, and that phone counseling line remains open to the public and busy as usual, with the hours of 9:00 a.m. – 12 noon and 1:00 p.m. – 4:00 p.m., Monday through Friday, excluding holidays. She said that staff continue to work on a hybrid basis both at home and in the office. Executive Director Varner explained that staff continue to work with DPW Architecture and Bureau of Building Repair regarding the work on the 6th & 7th floor suites.

Executive Director Varner told the Board that staff are now working on the next phase of the Housing Inventory for small property owners to report into the this fall. She said that staff are beginning to conduct outreach to small property owners whose first Housing Inventory reporting deadline is March 1, 2023, and that staff will be resuming outreach efforts at Sunday Streets Western Addition on September 18, and the San Francisco Housing Expo on October 1.

She explained that in regards to the Rent Board Fee, staff are closing up the FY22 Fee cycle, the Rent Board will send out a notice the Notice of Delinquent 21-22 Rent Board Fee to property owners who have not paid, giving them 30 days to pay the Rent Board with the late penalties. Director Varner explained that if any delinquent owner then does not pay, the Rent Board will refer the delinquent fee obligation to the City's Bureau of Delinquent Revenue, where any delinquent owners will be charged a commission on top of the outstanding fee and late penalties. She said that the Rent Board is in preparation for beginning the 2023 Rent Board Fee cycle, and owners will be receiving information notices regarding the fee and Inventory around November 1.

Director Varner gave a short update in regards to legislation, firstly telling the Board that Board of Supervisors (BOS) File No. 211202, which authorizes the construction of "Bonus Dwelling Units" on certain lots, provided those newly constructed units are offered for rent at affordable rates and remain subject to the rent increase limitations of the Rent Ordinance, is still before the Land Use and Transportation Committee.

Director Varner introduced and welcomed new neutral alternate commissioner Juliet Haley, who is filling the role that Commissioner Hung vacated when he was recently promoted to the

role of neutral voting commissioner. She also congratulated Commissioner Hung on his new role.

Director Varner introduced new Rent Board Specialists Evelyn Benitez and Abraham (Abe) Jue. Evelyn previously worked at Legal Aid Society of San Mateo County, speaks Spanish, and will be working the Housing Inventory & Rent Board Fee Unit, and has already started outreach. Abe will be working in the Public Information Unit, is a graduate of San Francisco Law School and most recently practiced Workers Compensation Law, while also having worked as a Precinct Services Liaison at the Department of Elections. The Board welcomed Evelyn and Abe.

IX. Old Business

A. AB 361, Mayoral Directive, and Future Remote Commission Meetings

Executive Director Varner stated that during previous Board Meetings, the Commissioners made findings to allow teleconferenced meetings pursuant to California Government Code 54953(e), and that the Commissions must make a similar finding at least once every 30 days to continue having teleconferenced meetings. After Acting Executive Director Varner read the Board's findings into the record, Commissioner Mosbrucker made a motion, seconded by Commissioner Gruber, to make a resolution making findings to allow a teleconferenced meeting on October 11, 2022 pursuant to California Government Code 54953(e). (Wasserman/Gruber: 8-0)

X. New Business

There was no new business.

XI. Calendar Items

October 11, 2022 – remote meeting via WebEx Events

A. Consideration of Appeals

5 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Mosbrucker.

XII. Adjournment

President Gruber adjourned the meeting at 7:42 p.m.