



London N. Breed
Mayor

Christina A. Varner
Acting 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
CATHY MOSBRUCKER
KENT QIAN
KION SAWNEY
ARTHUR TOM
DAVID WASSERMAN

Tuesday, December 14, 2021
at 6:00 p.m.

Remote Meeting via video and teleconferencing
<https://bit.ly/3G2X9P8>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2495 621 6429

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 November 9, 2021 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 December 14, 2021 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3G2X9P8>. The public comment call in instructions are available on the Rent Board’s website at <https://sfrb.org/meetings/9>.

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

I. Call to Order

Vice President Mosbrucker called the meeting to order at 6:08 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Tom read the Ramaytush Ohlone Land Acknowledgment.

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III. Roll Call

Commissioners Present: Crow; Hung; Klein; Mosbrucker; Qian; Sawney; Tom; Wasserman.

Commissioners Not Present: Gruber.

Commissioners Appearing Late: Dandillaya, 6:53 p.m.

Staff Present: Brandon; Flores; Koomas; Varner.

IV. Approval of the Minutes

MSC: To approve the minutes of November 9, 2021.
(Wasserman/Qian: 8-0)

V. Remarks from the Public

A. Dennis Zaragoza, the attorney for various tenants at the Frederick Douglas Haynes Apartments (AT210078 - AT210085) stated that the issue on appeal was “simple”, in that he was asking the Commissioners to follow the law and find that the tenants’ units are subject to the Rent Ordinance. He stated that the Administrative Law Judge (ALJ) ignored language in Rent Ordinance section 37.2(r)(4)(C) that creates an “exception to the exemption” for properties where Low Income Housing Tax Credits have been reserved or obtained.

B. Yoo Jin Song, the subtenant at 2528 Fulton Street (AT210077), stated that she disagreed with the decision because the ALJ should have allocated a larger share of the total rent to the master tenant, and that she is experiencing financial hardship because of the Covid-19 pandemic and believes that a different allocation of the total rent is fair.

C. A tenant at the Frederick Douglas Haynes Apartments (AT210078 - AT210085) stated that she has lived in the building for 31 years, and in 2015, the tenants were informed that their units would continue to remain rent controlled. She stated that the decision is unfair to the rent controlled tenants in the building, especially during a global pandemic.

D. Patricia Beasley, a tenant at 1069 Golden Gate Avenue, #F (AT210078), stated that she has lived in the building for 44 years. She stated that rent increases for building tenants are expected to range between \$100.00-\$500.00 over the next five years, and that she was asked to pay a rent increase of \$100.00 beginning in February. She stated that she is on a fixed income, cannot afford to pay increased rent, and was given no guarantee that rent will not continue to increase in the future. She stated that the tenants are being asked to pay for the landlord’s renovations to the building, and are being “held hostage” by management until they agree to sign a new lease and pay higher rent.

E. Fiona Abai, a tenant at 940 MCallister Street, #D (AT210080), stated that the decision does not follow the Ordinance or legal precedent. She stated that Rent Ordinance section 37.2(r)(4)(C) clearly states that tenants in buildings where Low Income Housing Tax Credits (LIHTC) have been reserved or obtained remain under the jurisdiction of the Rent Ordinance

if they moved in prior to when the LIHTC was approved. She asked the Board to remand the case to the ALJ with instructions to find that the tenants' units are subject to the Rent Ordinance.

VI. Consideration of Appeals

A. 1230 La Playa Street, #102

AL210075

The tenants' petition alleging a decrease in housing services was granted and the landlord was found liable to the tenants in the amount of \$15,420.00 for water leaks, faulty windows and mold, and in the amount of \$353.00 for raccoon intrusion. On appeal, the landlord contends that all repairs were performed within a reasonable period of time; that the tenants denied access or were unavailable for repair work in the unit; and that the Decision fails to account for a \$7,000.00 rent credit that the landlord provided the tenants.

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

B. 17 Hoff Street

AT210076

The tenants' petition alleging an unlawful rent increase was denied because the ALJ found that the rent increase effective April 1, 2021 was authorized by Rules and Regulations Section 6.14. On appeal, the tenants claim that the ALJ erred by dismissing the tenants' oral testimony that the former landlord was aware of their occupancy beginning in 1976, many years prior to service of the July 2000 6.14 Notice.

The appeal was withdrawn on December 10, 2021.

C. 2528 Fulton Street

AT210077

The subtenant's petition alleging a disproportional share of rent was granted in part and denied in part. Although the ALJ found that the subtenant's contract rent exceeded her proportional share, the subtenant did not prove that her rent payments to the master tenant, in aggregate, exceeded the total amount owed. The subtenant appeals, asserting that her proportional share of the total rent should have been based on the square footage of exclusively occupied space.

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

D. 120 Pierce Street, #A

AT210087

The tenant's application requesting deferral of a capital improvement passthrough based on financial hardship was granted for the period of December 1, 2019 to January 31, 2021. On appeal, the tenant claims that she qualified for financial hardship deferral for five additional months, through June 30, 2021, and that the landlord increased her rent in July of 2021, which brings her rent within \$14.84 of renewed eligibility for hardship deferral.

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

- E. 1049 Golden Gate Avenue #A; 1069 Golden Gate Avenue #F;
920 McAllister Street #C; 940 McAllister Street #D-#F; 1020 Buchanan St. #D-#E

AT210078 - AT210085

The tenants in 8 units filed consolidated petitions seeking a determination that the Rent Board has jurisdiction over their subject units. The ALJ denied the petitions on the basis that the tenants' rents are regulated by federal Housing and Urban Development (HUD) or Mayor's Office of Housing and Community Development (MOHCD) guidelines pursuant to a July 2020 Regulatory Agreement with the City and County of San Francisco. On appeal, the tenants argue that the exemption from the Rent Ordinance for properties where Low Income Housing Tax Credits have been reserved or obtained is not applicable in this case because the subject tenancies began before any Tax Credit regulatory agreement was recorded on the property.

Commissioner Qian recused himself from the consideration of these appeals because he previously represented some of the tenants at the property.

Commissioner Sawney recused himself from the consideration of the appeals because he was previously employed by the landlord's property management company and was involved in the development agreement for the property.

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

V. Remarks from the Public (cont.)

F. Dennis Zaragoza, the attorney for various tenants at the Frederick Douglas Haynes Apartments (AT210078 - AT210085), stated that the concept of "preemption", which was mentioned by the Commissioners, was never raised by the landlord or by the ALJ, and he's not aware of any case law finding that LIHTC agreements preempt local ordinances. He stated that the tenants' units should fall under Rent Board jurisdiction pursuant to Rent Ordinance section 37.2(r)(4)(C), and that the Rent Board abused its discretion in denying the appeals.

VII. Communications

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

- A. Articles from the SF Public Press, Mission Local, SF Examiner, and CBS San Francisco.
- B. Monthly workload statistics for October 2021.

- C. Updated litigation status report.
- D. A Letter from the San Francisco Apartment Association regarding implementation of the Rental Housing Inventory legislation.

VIII. Director's Report

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

Acting Executive Director Varner told the Board that Rent Board operations remain mostly unchanged since last month - the office remains open Monday through Friday with counseling available in-person or by phone, and staff continue to work a hybrid in-office/remote schedule following City policy. She said that staff are also continuing to work with the architecture division of the Department of Public Works for the planned relocation of the Rent Board's offices to the 6th and 7th floors of the existing building, and that several recruitments are currently underway for various open positions.

Acting Director Varner thanked Rent Board staff for their work during the recent Rent Board fee exemptions period, which she described as a major transition in the Rent Board's history. She stated that everyone on staff has been working very hard during this time, and that the counseling staff in particular have answered hundreds of calls from the public regarding the new Rent Board fee process. She stated that staff will be receiving assistance from 311 with receiving phone calls concerning the fee in the near future, and look forward to the transition.

Regarding legislation, Acting Director Varner notified the Commissioners that Board of Supervisors (BOS) File No. 211096, regarding tenant associations and organizing activities, is still at the Rules Committee for consideration. She also stated that BOS File No. 210699, version 2, which amended the Planning Code and Rent Ordinance regarding Accessory Dwelling Units (ADU) and tenant housing services, was signed by the Mayor and recently went into effect. She told the Board that in order to implement the ADU legislation, Rent Board staff collaborated with the Planning Department and Supervisor Mandelman's office to develop three new forms for public use, including an "Owner's Declaration" and "Tenant Objection" forms. Finally, Acting Director Varner stated that BOS File No. 210963, an Ordinance to extend the local residential eviction moratorium through December 31st, 2021, was signed by the Mayor, and that BOS File No. 211202, regarding building density limits and the construction of affordable rental units, was recently introduced and is currently before the Land Use Committee.

Acting Executive Director Varner reminded the Commissioners that they previously discussed the Rent Board's participation in a new statewide organization of rent board employees and experts, and that the Commissioners had approved the allocation of funds in the FY 21-22 budget for the Rent Board's membership in the organization. She stated that the group has now been re-configured from a membership-based organization, to a subscription-type service that would provide weekly updates and analysis regarding relevant legislation and litigation, facilitate discussions and information sharing, and host regular meetings of rent board staff. She stated that participation in the organization is of tremendous value to Rent Board staff, and that she was asking for the Board's approval to expend funds to subscribe to the service. The

Commissioners discussed the new organization and unanimously voiced support for the Rent Board's participation in the statewide organization.

Acting Executive Director Varner told the Commissioners that informational notices were recently mailed out to property owners that explained how to request an exemption from the Rent Board fee using the new online Portal. She said that after the period to request an exemption ends, invoices will begin going out in waves beginning in January 2022, and that property owners will have until March 1 to pay the fee either online, by mail, or at the Treasurer and Tax Collector's office. After March 1, owners will be assessed penalties on unpaid fees, and if not paid by June 1, any unpaid obligation it will be referred to the Bureau of Delinquent Revenues.

Finally, at the request of Acting Executive Director Varner, the Commissioners agreed to discuss implementation of the Rental Housing Inventory and the Department's FY 2022-2023 budget during the next meeting.

IX. Old Business

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

Acting Executive Director Varner stated that during the previous two 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 Wasserman made a motion, seconded by Commissioner Mosbrucker, to make a resolution making findings to allow a teleconference meeting on January 11, 2022 pursuant to California Government Code 54953(e). (Wasserman/Mosbrucker: 9-0)

X. New Business

A. Fiscal Year 2022-2023 Departmental Budget

B. Rental Housing Inventory Legislation Implementation

XI. Calendar Items

January 11, 2022 – remote meeting via WebEx Events

A. Consideration of Appeals

3 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Sawney.

XII. Adjournment

Vice President Mosbrucker adjourned the meeting at 7:30 p.m.