



London N. Breed
Mayor

Christina A. Varner
Acting Executive Director

DAVID GRUBER
PRESIDENT

DAVE CROW
SHOBA DANDILLAYA
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, January 11, 2022
at 6:00 p.m.

Remote Meeting via video and teleconferencing

<https://bit.ly/3mHueJj>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2489 807 3169

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 December 14, 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 January 11, 2022 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3mHueJj>. 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

President Gruber called the meeting to order at 6:06 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; Dandillaya; Gruber; Hung; Mosbrucker; Qian; Sawney; Tom; Wasserman.

Commissioners not Present: Klein.

Staff Present: Brandon; Flores; Koomas; Varner.

IV. Approval of the Minutes

MSC: To approve the minutes of December 14, 2021.
(Wasserman/Tom: 9-0)

V. Remarks from the Public

A. Edmund Hum, the landlord at 930 Pacific Avenue (AL210089), stated that he missed the original hearing date, and he was attending the board meeting to observe the Commissioners' discussion of his appeal.

B. Mark Chernev, the attorney for the landlord at 1129 Guerrero Street (AL210088), stated that the tenant petitioner moved out and lived on her own as an adult for two years before moving back into the subject unit. He stated that the ALJ erred when he concluded that the tenant remained an original occupant despite moving out of the unit. He said that the facts in the *Mosser* case are different, and that the ALJ misapplied the analysis from the *Drolapas* case because the tenant never paid any rent and therefore was never a lawful sublessee or assignee.

VI. Consideration of Appeals

A. 930 Pacific Avenue AL210089

The landlord's petition for a capital improvement passthrough was dismissed due to the landlord's non-appearance at the properly noticed hearing. The landlord appeals on the basis that he had a family emergency on the day of the hearing and could not appear.

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

B. 345 Clement Street AL210090

The tenants' petition alleging a decrease in housing services was granted in part. The landlord was found liable to the tenants in the total amount of \$25,435.00 for the lack of a permanent heating source and various other habitability defects at the premises. On appeal, the landlord contends that some of the habitability defects were corrected in late

August 2021, and that no rent reduction should have been awarded for the period of time after the defects were corrected.

MSC: To accept the appeal and remand the case to the ALJ to consider whether or not any of the housing services were restored by the landlord prior to November 30, 2021.
(Wasserman/Gruber: 5-0)

C. 2665 Leavenworth Street

AL210091

The tenants' petition alleging a decrease in housing services was granted. The landlord was found liable to the tenants in the total amount of \$7,080.00 for the condition of the garage car lift, a broken security gate lock, inadequate trash and recycling collection, and a broken kitchen light fixture. On appeal, the landlord contends that the ALJ's valuation of the tenants' claims are inaccurate and inflated; that the tenants have an excessive amount of guests in the unit; and that the tenants had adequate kitchen lighting.

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

D. 1129 Guerrero Street

AL210088

The tenant's petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act was granted. The ALJ found that the tenant petitioner was an original occupant and/or a lawful subtenant who resided in the unit prior to January 1, 1996, and therefore no rent increase was authorized by Civil Code Section 1954.53(d)(2). On appeal, the landlord argues that the tenant surrendered her status as an original occupant because she resided in Daly City for two years, and that the tenant should carry the burden of proving the rent increase was unlawful.

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

E. 1109 Powell Street

AT210086

The landlord's petition under the Costa-Hawkins Rental Housing Act was granted. The ALJ found that the tenant petitioner was a subtenant at the time the petition was filed, and therefore the Costa-Hawkins increase to \$3,500.00 was warranted. On appeal, the tenant maintains that he was a co-tenant, not a subtenant, because the landlord knew of his request for an online rent payment account and knowingly accepted his rent payments before serving the rent increase notice.

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

///

V. Remarks from the Public (cont.)

C. Lucy Lee Tse, a tenant at 930 Pacific Avenue (AL210089), stated that the tenant respondents do not think that the landlord's appeal provides a reasonable excuse for his absence from the hearing, as he could have used his daughter's phone to appear. The tenant stated that she doesn't think it's fair that the tenants dropped everything to attend the Rent Board hearing, but the landlord couldn't use his own daughter's phone to appear.

VII. Communications

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

- A. Articles from the SF Chronicle, SFist, and Bay City News.
- B. Monthly workload statistics for November 2021.
- C. A memorandum to the Commissioners from Rent Board staff regarding the Board's discussion of the Housing Inventory.

VIII. Director's Report

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

Acting Executive Director Varner told the Board that Rent Board staff continue to work a hybrid in-office/remote schedule following City policy, but that due to the Covid-19 Omicron surge, staff have been working fewer hours in the office since the end of December, per updated guidance from the City. She told the Board that the Rent Board's office continues to remain open five days per week, and that operation of the phone counseling line has not been affected.

Acting Executive Director Varner told the Board that staff are in the midst of recruitments for various positions, and will soon begin interviews for a Project Coordinator to manage the Rent Board's move to new offices at 25 Van Ness. Regarding the Rent Board Fee collection process, she told the Board that mailing of Annual Notices began today, and the payment portal on the Rent Board's website will be open tomorrow. She advised property owners who have questions about the new process to call 311 for assistance.

Regarding legislation, Acting Executive Director Varner notified the Commissioners that Board of Supervisors (BOS) File No. 211265, which requires landlords pursuing certain types of evictions to first give the tenant a written 10-day warning notice and opportunity to cure, passed the Land Use Committee earlier that day and would be considered by the full Board of Supervisors on January 25. She also said that BOS File No. 211096, regarding tenant associations and organizing activities, is still at the Rules Committee for consideration and BOS File No. 211202, regarding building density limits and the construction of affordable rental units, is currently before the Land Use Committee.

In regards to the Board's ongoing racial equity work, acting Executive Director Varner told the Board that two Commissioners had taken the City's online implicit bias training hosted by the Department of Human Services (DHR), and that one other Commissioner was scheduled to take the training in the near future. She said that DHR was conducting the trainings on a bi-monthly basis, and that staff would work to enroll the remaining Commissioners in future DHR trainings. Finally, Acting Executive Director Varner acknowledged that Commissioner Dandillaya was resigning after the March 2022 Board meeting, and thanked her for all of her efforts and insights as a Board Commissioner. She said that Commissioner Dandillaya had made great contributions to the Board's work, and that she would be sorely missed.

IX. Old Business

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

Acting Executive Director Varner stated that there were two items to discuss, (1) the Policy Body Member Vaccination Policy and changes to future Board meetings, and (2) that the Board will need to make a motion under California Government Code 54953(e) to allow a remote board meeting in February 2022. Regarding the first item, she stated that pursuant to the 38th and 41st Supplements to the Mayoral Proclamation of an Emergency and a recent mayoral memo regarding the Covid-19 emergency, all members of public policy bodies must be fully vaccinated against Covid-19 by January 31, 2022 to remain in service, and that any policy body member who is not vaccinated will need to seek a waiver or will be excused from service. In addition, she stated that all policy bodies are required to meet in person beginning on February 28, 2022, which means that the Board's March meeting must be in person. She stated that the Commissioners and staff must be present in person, and that members of the public could attend either in person or remotely. She stated that Mayor Breed has specifically made SFGovTV available to support City policy bodies' ability to allow for both in-person and remote public comment. Acting Director Varner also explained to the Board that the technical assistance and streaming on SFGovTV is only available if the Commission meets in City Hall, and, while it not required, City policy bodies are strongly encouraged to make full use of this support being provided by the Mayor. Acting Executive Director Varner stated that she had made a request to reserve a meeting room for board meetings at City Hall and is awaiting a response regarding room availability. She also discussed some potential scheduling and logistical issues related to in-person meetings with the Commissioners.

Acting Executive Director Varner then stated that during the previous three 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 in order to have a teleconferenced meeting in February. After Acting Executive Director Varner placed the Board's findings into the record, Commissioner Wasserman made a motion, seconded by Commissioner Gruber, to make a resolution making findings to allow a teleconference meeting on February 8, 2022 pursuant to California Government Code 54953(e). (Wasserman/Gruber: 9-0)

///
///
///

X. New Business

A. Fiscal Year 2022-2023 Departmental Budget

Acting Executive Director Varner made the first of two budget presentations to the Board for the fiscal year 2022-2023 budget cycle. She explained to the Board that in fiscal year 2020-2021, due to attrition savings, the department was able to come in at about \$9.8M, and that the Haney legislation, which amended the Rent Ordinance by bringing up to 55,000 units under the Rent Board's jurisdiction, had increased the need for about 4 new positions. She said that in 2021, further major legislative changes occurred, which are the Housing Inventory legislation, requiring the department to create an inventory of all residential units in the city, and the Rent Board fee legislation, which requires the department itself to collect and assess its own primary source of funding, the Rent Board fee. Acting Director Varner explained that both of these items brought the need to increase a significant number of positions in the department, that the increased staff size also brought about the need to seek a larger office space, as the existing space cannot support the increased number of positions needed to carry out the new work. She said that under the leadership of former Executive Director Collins, this Board approved a fiscal year 2021-2022 budget of \$13.1M to support the growth.

Acting Director Varner then explained that she had new information to inform the fiscal year 2022-2023 budget, and that firstly, the department was able to keep costs down by using the database vendor that several other rent boards in California have used, which offers an excellent out-of-the-box solution. She explained that this past November, the department rolled out its Rent Board fee exemption period using this new database platform. She acknowledged that as former Director Collins predicted last year, the department did incur increased costs for mailings. She also explained that the department experienced a very large increase in the amount of public contacts in November and December 2021, as the public was seeking information regarding the new Rent Board fee and exemption process. She further said that the department has closely partnered with 311, who are now going to be the primary contact for calls regarding the Rent Board fee, which brings about an increased work order. Finally, she said that the department has identified which positions are the most urgent to hire.

Acting Director Varner explained to the board that while the Haney legislation ultimately added around 35,000 new units under the Rent Board's jurisdiction, the department was aware that having to assess and collect the fee could lead to many exemption requests, and that due to a projected 14,400 granted requests for exemption from the Rent Board fee together with some identified unit count changes, the department will likely be down \$850,000 in revenues from the previous year. However, she said, this trend is likely to reverse course during next fiscal year – this will be because property owners will want to register their units in the housing inventory because they will want to be issued a license to be able to increase their tenants' rents.

In regards to positions, Acting Director Varner explained, fiscal year 2020-2021 saw the unexpected departure of 5 employees. She said that in regards to the most essential public contact positions, the department sought to get those filled right away, including hiring three temporary counselors and promoting a permanent counselor into a temporary second Rent Board Supervisor role. She said that in fall 2021, another counselor retired, and former Director Collins retired, so there have been some vacancies and salary savings. Acting Director Varner explained that a challenge has been bringing on the IT position, which was delayed due to a

variety of factors, but whom we expect to have on board in March, and that several other recruitments have taken time due to several factors, including pandemic-related staff shortages. However, she explained, this is also very positive due to the increased salary savings for fiscal year 2022-23. She told the Board that another item on which the department is awaiting more information is the office suite rent, looking at both the present offices on the 3rd floor, and the future offices on the 6th and 7th floors of 25 Van Ness. Acting Director Varner explained that things look very positive as there is some fund balance and salary savings to rely on. Ultimately, current projections show that the department well-off due to these savings, and the department will not have to raise the fee next year. She said that she will provide more concrete numbers for the Board at its next meeting.

B. Rental Housing Inventory Legislation Implementation

Commissioner Wasserman began the discussion by stating that some members of the housing industry would like to be involved in implementation of the Housing Inventory legislation, and would invite equal participation from tenant groups. He said that property management companies are concerned with how the registration process will work, and whether it will be possible to report data for multiple units simultaneously. He also said that some members of the housing industry would like to meet with Rent Board staff regarding the Housing Inventory to express their needs and concerns before the first deadline in July of 2022. Acting Executive Director Varner said that she has been working with the Rent Board's technology vendor to develop the online portal for some months now, and that they have a lot of flexibility in design, which should allow some of the concerns raised by property owners to be addressed. Commissioner Wasserman said that larger housing providers simply wanted to make sure they had a seat at the table during the implementation process to minimize problems with compliance. Senior Administrative Law Judge Koomas then suggested that Commissioner Wasserman have lead members of the housing industry reach out to Rent Board management and arrange a time to meet, to which Commissioner Wasserman agreed.

XI. Calendar Items

February 8, 2022 – remote meeting via WebEx Events

A. Consideration of Appeals

No appeal considerations are scheduled.

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Qian.

XII. Adjournment

President Gruber adjourned the meeting at 7:56 p.m.