



London N. Breed
Mayor

Christina A. Varner
Acting Executive Director

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DAVID WASSERMAN

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

Tuesday, April 12, 2022
at 6:00 p.m.

Remote Meeting via video and teleconferencing
<https://bit.ly/3LK6U7W>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2492 314 1617

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 March 15, 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 April 12, 2022 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3LK6U7W>. 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 6:07 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Mosbrucker read the Ramaytush Ohlone Land Acknowledgment.

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III. Roll Call

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

Commissioners not Present: None

Staff Present: Brandon; Koomas; Omidvari; O'Neill; Varner.

IV. Approval of the Minutes

MSC: To approve the minutes of March 15, 2022.
(Wasserman/Mosbrucker: 9-0)

V. Remarks from the Public

A. Edward Singer, the attorney for the landlord at 1651 Market Street #310 (AT220008), stated that he supports the decision and that the ALJ was correct to begin the rent reduction in June of 2020 rather than the earlier period requested by the tenant.

B. Jason Bruno, a tenant at 1388 Filbert Street (AL220007), explained why he disagreed with the landlord's appeal and described his own work to abate the rodent infestation in the unit and the resulting impact on his family.

VI. Consideration of Appeals

A. 1121 Leavenworth Street AT220009

The tenant's petition alleging decreased housing services was dismissed due to the tenant's non-appearance at the mediation. On appeal, the tenant claims that he misunderstood the instructions for how to appear by phone.

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.
(Wasserman/Mosbrucker: 5-0)

B. 36 Allen Street AT220005

The tenant's appeal was filed 152 days late because the tenant believed a discrepancy in the decision would be corrected by the landlord without resort to an appeal.

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

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant for rent overpayments in the amount of \$10,200.00. Specifically, the Administrative Law Judge (ALJ) found that garage parking was a housing

service included in the tenant's base rent at the inception of the tenancy, and that the landlord's request for an additional \$200.00 per month for garage parking beginning in July of 2017 constituted a substantial decrease in housing services. On appeal, the tenant claims that the landlord increased the garage rent from \$200.00 to \$203.20 beginning on November 1, 2018, and that the additional \$3.20 per month should be refunded to him.

MSC: To accept the appeal and remand the case on the record for the ALJ to correct the value of the garage based on the tenant's new evidence.
(Wasserman/Mosbrucker: 5-0)

C. 1770 Green Street, #104

AT220006

The tenant's appeal was filed 6 days late because he was hospitalized at the time the decision was issued.

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

The tenant's petition alleging decreased housing services was denied. The ALJ found that the tenant failed to meet his burden of proving a substantial decrease in housing services due to excessive heat in his unit. On appeal, the tenant claims in part that the landlord's property manager lied and presented deceptive photographs at the hearing, and that his phone line cut off during the hearing which prevented him from fully presenting his case.

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

D. 1388 Filbert Street

AL220007

The tenants' petition alleging decreased housing services was granted in part and the landlord was found liable to the tenants for rent overpayments in the amount of \$7,985.00 for various repair conditions. The landlord appeals, contending that the rent reduction of \$1,800.00 for the nine-month rodent infestation should be reduced by half since the tenants were partly responsible for the problem.

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

E. 1651 Market Street, #310

AT220008

The tenant's petition alleging decreased housing services was granted in part and denied in part. While the landlord was found liable to the tenant for rent overpayments in the amount of \$690.00 for inoperable windows beginning in June of 2020, the ALJ found that the tenant did not meet his burden of proving that the landlord had notice of the condition prior to that date. On appeal, the tenant argues that the evidence established the landlord had notice of his inoperable windows for many years, that the ALJ's valuation of his claim was unreasonable, and that a reduction in rent should also be granted for the plumbing noises caused by his kitchen sink.

Commissioner Klein recused herself from the consideration of this appeal because she represented the landlord's property manager in other matters.

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

F. 1686 Hayes Street, #1

AT220004

The tenant's petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act was denied. The ALJ found that the tenant petitioner no longer permanently resided at the subject unit at the time the notice of rent increase was served and that the landlord was therefore entitled to increase the rent pursuant to Civil Code Section 1954.52(d)(2). The tenant appeals, arguing in part that despite her extended temporary absence from the unit due to personal family matters and other extraordinary circumstances, the subject unit has always remained her sole permanent residence.

Commissioner Wasserman recused himself from the consideration of this appeal because he represents the landlord in other matters.

MSC: To accept the appeal and remand the case to the ALJ to allow the tenant to produce additional evidence regarding her intent to return to the subject unit, with a hearing to be held only if necessary.
(Mosbrucker/Qian: 4-1; Klein dissenting)

V. Remarks from the Public (cont.)

A. Richard Ercoli, the tenant at 1651 Market Street, #310 (AT220008), stated that the prior landlord had clear notice of the defective conditions in his unit going back to 2012, and that it is unfair for the Commissioners to dismiss his appeal when he submitted evidence to prove his claims by a preponderance of the evidence.

VII. Communications

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

- A. Articles from the SF Chronicle, SF Business Times, Mission Local, SF Public Press, CBS News Bay Area, and Bay Area News Group.
- B. Monthly workload statistics for February 2022.

VIII. Director's Report

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

In regards to current departmental operations, Acting Executive Director Christina Varner (Acting Director Varner) told the Board that the Rent Board's office remains open to the public during reduced hours, and that staff continue to work on a hybrid remote/in-office basis

pursuant to citywide policy. She also said that staff are working to develop the Housing Inventory portal for the initial phase of buildings with ten or more units, and that the Board will be discussing implementation of the Housing Inventory legislation at the May board meeting.

Acting Director Varner told the Commissioners that Board of Supervisors (BOS) File No. 220341, regarding the Ellis Act, was introduced by Supervisor Melgar on April 5. The legislation amends Rent Ordinance Section 37.9A and (1) clarifies that the date a property is withdrawn from the rental market is based on the latest date that any tenancy in the property is terminated; (2) requires that an owner who returns a unit to the rental market following an Ellis Act eviction must return the entire property to the market, with exceptions for certain owner-occupied units; and (3) clarifies that an owner's payment of punitive damages following the owner's unlawful re-rental of a unit does not extinguish the owner's obligation to re-offer the unit to the displaced tenants. The legislation also increases the relocation payments that owners must pay to tenants when evicting under the Ellis Act.

Regarding other pending legislation and litigation, Director Varner said that BOS File No. 211096, regarding tenant associations and organizing activities, went into effect on April 11, 2022; 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 Committee; BOS File No. 210866, which would waive certain building limits provided those newly constructed units would be subject to the rent increase limitations of the Rent Ordinance, is also before the Land Use Committee; BOS File No. 220131, which would have reinstated the local eviction moratorium for non-payment of rent beginning on April 1, 2022, will not take effect due to the passage of AB 2179. The State bill extends California's eviction moratorium through June 30, 2022 and prohibits the enactment of any new local eviction moratoria prior to July 1, 2022; and BOS File No. 211265, which required landlords pursuing certain types of evictions to first give the tenant a written 10-day warning notice and opportunity to cure, was signed by the Mayor and went into effect on March 14, 2022. However, in response to a lawsuit challenging the validity of the legislation, the SF Superior Court issued an Order temporarily staying the 10-day Warning Notice Requirement pending resolution of the case on March 23, 2022.

Finally, Acting Director Varner introduced Eileen O'Neill as the Rent Board's new Facilities and Operations Project Manager and Amir Omidvari as the Rent Board's new Chief Information Officer. Director Varner stated that an additional five new employees were expected to begin employment in April and another three should begin within the following month or two.

IX. Old Business

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

Acting 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 Wasserman made a motion, seconded by Commissioner Mosbrucker, to make a resolution making findings to allow

a teleconference meeting on May 10, 2022 pursuant to California Government Code 54953(e).
(Wasserman/Mosbrucker: 9-0)

X. New Business

(There was no New Business.)

XI. Calendar Items

May 10, 2022 – remote meeting via WebEx Events

A. Consideration of Appeals

4 appeal considerations

B. Rental Housing Inventory Legislation Implementation

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Crow.

XII. Adjournment

President Gruber adjourned the meeting at 7:27 p.m.