



London N. Breed
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Christina A. Varner
Executive Director

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ASHLEY KLEIN
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ARTHUR TOM
DAVID WASSERMAN

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

Tuesday, June 14, 2022
at 6:00 p.m.

Remote Meeting via video and teleconferencing
<https://bit.ly/3O2gq7m>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2485 085 5334

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 May 10, 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 June 14, 2022 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3O2gq7m>. 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 Hung 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; Flores; Koomas; Varner.

IV. Approval of the Minutes

MSC: To approve the minutes of May 10, 2022.
(Sawney/Wasserman: 9-0)

V. Remarks from the Public

A. Alexander Hsieh, the landlord of 245 Tingley Street (AT220016), asked the Board for confirmation that his response to the tenant's appeal was received. Upon receiving confirmation, he stated that he had nothing further to add.

B. Laura Campbell, the attorney for the landlord of 418 Union Street (AL220015) stated that although one tenant vacated after receiving the Ellis eviction notice, it may have been for unrelated reasons. She stated that since the court found the eviction notices to be invalid, the landlord could not proceed under the Ellis Act and received no benefit. She stated that the facts in this case constitute "extraordinary circumstances" justifying rescission under the Rent Board's standard, and that the denial of the landlord's request for rescission results in an unlawful taking under California law.

C. Theresa Flandrich, co-founder of the North Beach Tenants Committee, stated that she has worked with the tenants of at 418 Union Street (AL220015) for several years, and that the owner had a long history of trying to get the tenants to move out before deciding to invoke the Ellis Act. She stated that one tenant moved out of her unit before the eviction notice expired because she was desperate to find new housing, and that a young man recently moved into that unit, and that even though the owner's eviction notices were invalidated by the court, the remaining tenants are concerned that the owner may serve new eviction notices.

D. John Chu, the landlord at 257 Lowell Street, In-Law (AT220017) called to confirm that his reply brief was received by the Board. Upon receiving confirmation, he stated that he had no further comment.

VI. Consideration of Appeals

A. 418 Union Street

AL220015

The landlords appeal the decision denying their request for rescission of an Ellis eviction notice. In the decision, the ALJ found that the landlord failed to prove that no tenant vacated after the July 16, 2020 eviction notices were served, or that extraordinary circumstances exist

to justify rescission. On appeal, the landlord argues that rescission should be granted for one unit because the tenants did not vacate the unit, and that the decision violates the Takings Clause of the United States Constitution.

Commissioner Mosbrucker recused herself from the consideration of this appeal because her office represented a building tenant in prior matters.

Commissioner Klein recused herself from the consideration of this appeal because her office represents the landlord appellant.

Commissioner Crow recused himself from the consideration of this appeal because his office represented a building tenant in prior matters.

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

B. 257 Lowell Street, In-Law

AT220017

The tenant appeals the decision granting the landlords' request for rescission of a relative move-in (RMI) eviction notice. The ALJ found that extraordinary circumstances exist to justify rescission of the RMI eviction notice because the landlords served the tenant with a new RMI eviction notice that superseded the one that was rescinded. On appeal, the tenant claims that the landlords' request for rescission form did not accurately describe the premises.

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

C. 245 Tingley Street

AT220016

The tenant's petition alleging decreased housing services was granted in part and the landlord was found liable to the tenant for rent reductions in the amount of \$450.00 for the loss of garage parking and access to laundry facilities. The tenant appeals, arguing in part that there were inaccuracies and omissions in the decision.

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

V. Remarks from the Public (cont.)

A. Alexander Hsieh, the landlord of 245 Tingley Street (AT220016), thanked the Board for considering his case.

B. Anastasia Yovanopoulos, a District 8 tenant and member of the Tenant's Union stated that the City has a compelling need for an accurate residential Housing Inventory for various reasons. She stated that the Inventory should include information regarding square footage in 250 square foot increments, a description of housing services included in a tenant's base rent, and owner contact information. She also stated that tenants should be able to verify the accuracy of the information provided by landlords concerning their units.

C. Theresa Flandrich, co-founder of the North Beach Tenants Committee, stated that it was important for the Housing Inventory to include accurate owner contact information. She stated that in her experience working with the Department of Building Inspection, owner contact information is often inaccurate or out-of-date, which frustrates the City's ability to provide owners with notice of new legal requirements.

H. Lauren, a tenant and member of Senior Disability Action and the Tenant's Union, stated that the purpose of the Housing Inventory legislation was to aid enforcement of the Rent Ordinance and to help the City understand the residential housing stock. She urged the Commissioners to adopt regulations that support those purposes, and to ensure that the information obtained remains accessible to 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 ABC7 San Francisco.
- B. Monthly workload statistics for April 2022.
- C. Proposed Rules and Regulations Sections 13.10, 13.11, 13.13, 13.14, and 13.15 - Draft Version 1, Draft Version 2, and Draft Version 3.

VIII. Director's Report

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

Acting Executive Director Christina Varner told the Board that the office remains open to the public at reduced hours, in line with City guidance and with support from the public, and that the phone counseling line remains open to the public from 9:00 a.m. – 12 noon and 1:00 p.m. – 4:00 p.m., Monday through Friday, excluding holidays, and that staff continue to work on a hybrid basis both at home and in the office following Citywide policy. She also explained that staff continue to work with DPW Architecture on the new space on the 6th and 7th floors and remain actively engaged in recruitments for a number of positions in the department.

Acting Director Varner informed the Board that she presented the Rent Board's proposed Fiscal Year 22-23 and 23-24 budget to the Board of Supervisors on May 18, 2022 and that the department received a warm and favorable reception from the Supervisors. She explained that the proposed budget came in slightly higher than the amount presented in February at \$16,294,283 adjustments and funding allotted for the move and tenant improvements. She said that the budget was balanced and anticipated that it will be approved and certified in August.

Acting Director Varner told the Board most major development since the last board meeting was that the Housing Inventory went live on June 3. She explained that notices were mailed out in the beginning of June for owners of properties of 10 units or more to use to report

information on their units. She said that many owners have reported already, automatically being granted licenses for their units which allows them to increase their tenants' rent, and that staff continue to work to refine technical issues in the Portal to make it easier to use. Acting Director Varner told the board that she and Rent Board public information unit supervisor Jennifer Rakowski presented on the Housing Inventory at the San Francisco Apartment Association's annual trade show on May 12 to a substantial group of property owners.

In regards to pending legislation, Acting Director Varner explained, Board of Supervisors (BOS) File No. [220447](#), which waives certain building limits provided those newly constructed units are subject to the rent increase limitations of the Rent Ordinance, and 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, are still before the Land Use and Transportation Committee.

Acting Director Varner told the Board that BOS File No. [220341](#), regarding Ellis Act evictions, was passed the Board of Supervisors on June 7th, 2022 and is awaiting the Mayor's signature. The legislation amends Rent Ordinance Section 37.9A in response to recent amendments to the State Ellis Act in 2020. Specifically, the legislation (1) clarifies that the date a property is withdrawn under the Ellis Act 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) increases the relocation payments that owners must pay to tenants when evicting under the Ellis Act. The legislation also makes clarifications regarding the payment of punitive damages and deletes inoperative Code sections.

Finally, Acting Director Varner told the Board that BOS File No. [220636](#), a ballot initiative introduced by the Board of Supervisors on May 24, 2022, would amend the City Charter to set forth as City policy a requirement that when the City amends the Planning Code to allow for additional residential numerical density or height, that developers agree to subject the new residential units in the development to rent control; to amend the Administrative Code to establish as the residential numerical density and height limits those controls in effect as of November 8, 2022, and to allow the Board of Supervisors to amend the Planning Code to exceed those limits if the ordinance requires a regulatory agreement to subject all dwelling units in development projects to the additional density or height to rent control.

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 Mosbrucker made a motion, seconded by Commissioner Wasserman, to make a resolution making findings to allow a teleconferenced meeting on July 12, 2022 pursuant to California Government Code 54953(e). (Mosbrucker/Wasserman: 8-0)

(Commissioner Klein temporarily departed the meeting due to technical issues at approx. 7:05pm.)

B. Proposed Rules and Regulations Regarding Housing Inventory Unit Reporting Procedures

Commissioner Wasserman opened the discussion by explaining that the Housing Inventory legislation has created some concerns for property owners that caused the need for regulations. Specifically, he stated that the legislation requires owners to provide information about their units under penalty of perjury, even though accurate unit information is often unknown. He stated that the Commissioners had been provided three different versions of draft regulations, and proposed that Draft Version 2, which incorporated some changes made by Rent Board staff, be put out for public hearing. Commissioner Mosbrucker stated that Section 13.10 of Draft Version 2 should be amended to require owners to report square footage in 250 square foot increments instead of 500 square foot increments, which is consistent with how the information is currently being reported on the Rent Board's web Portal. The Commissioners then discussed the square footage requirements and the concerns of their respective constituencies. Commissioner Mosbrucker stated she would support moving Draft Version 2 out for public hearing provided Section 13.10 provided her amendments to the square footage increments were included, which was supported by Commissioner Wasserman. After Commissioner Qian suggested some clarifying amendments to the wording of Section 13.14 regarding null and void rent increases, the Commissioners made and voted upon the following motion:

MSC: To move out for public hearing the proposed Rules and Regulations Sections 13.10, 13.11, 13.12, 13.13, and 13.14 - Draft Version 2 with amendments to Section 13.10 regarding square footage, and Section 13.14 regarding accumulation of null and void rent increases.
(Mosbrucker/Wasserman: 9-0)

C. Public Employee Appointment/Hiring - Replacement of the Rent Board Executive Director

An announcement was made that the Board would discuss hiring of the Rent Board Executive Director.

X. Potential Closed Session: Public Employee Appointment/Hiring – Replacement of the Rent Board Executive Director

A. Vote on whether to go into closed session (SF Admin. Code 67.10(b), 67.11)

MSC: To go into Closed Session.
(Wasserman/Gruber: 5-0)

B. Potential closed session (Govt Code 54957.9(b)(1); SF Admin. Code 67.10(b))

The Board went into Closed Session from 7:53 p.m. to 8:01 p.m. to discuss Public Employee Appointment/Hiring – replacement of the Rent Board Executive Director.

C. Vote on whether to disclose and possible disclosure of any/all conversations held in closed session (S.F. Admin. Code 67.12(a))

MSC: Not to disclose the Board's discussion regarding Public Employee Appointment/Hiring – Replacement of the Rent Board Executive Director. (Wasserman/Mosbrucker: 5-0)

XI. New Business

A. Property Tax Changes Resulting from the Passage of Prop. 19 (2020)

Commissioner Tom introduced this item by explaining that when a property owner passes away and the property is transferred to their heirs, California's Proposition 19 now requires that the property be reassessed for property tax purposes. As a result, he said, some property owners have experienced large property tax increases without the ability to offset the cost with any additional rental income. He said that he understood it was a State law issue, but wanted to discuss whether the Rent Board might have a role in advocating for legislative changes to mitigate the financial impact on property owners in these circumstances. Commissioners Crow and Sawney responded that it was not appropriate for the Commission to advocate for tax law changes. Commissioner Qian stated that if the owner could show that they were deprived of a fair return on their investment property as a result of the Rent Ordinance and Proposition 19, they might file a Fair Return rent increase petition. Commissioner Tom then asked the Board if he could make a motion to present the issue to the Board of Supervisors with the recommendation of the Board. Commissioner Crow responded that he would oppose the motion because the Board had not been involved in making legislative recommendations in the past. Commissioner Tom stated that he understood there was no general support for his motion at this time, but thanked the Board for discussing the issue, and stated that he hoped they could discuss it further in the future.

B. Departmental Racial Equity Work Update

At Commissioner Sawney's request, and consistent with the department's commitment to provide regular updates regarding its racial equity work, Acting Executive Director Varner provided the Commissioners with an update. She explained that Jennifer Rakowski, one of the supervisors of the Rent Board's public information unit, is the department lead and serves as a liaison to the City's Office of Racial Equity, which is part of the Human Rights Commission, and that Acting Director Varner was formerly a department lead, and staff member Erin Katayama was also a lead for a period of time, and continues to assist on the initiatives. She told the Board that the department has budgeted a half-time employee to focus on racial equity work in the department as one of their core functions, and the department is in the beginning stages of hiring that employee. She explained that the Office of Racial Equity was created in 2019 and the citywide initiative to have all City departments identify leaders and create a Racial Equity Action Plan was born. She told the Board that in December 31, 2020 the Rent Board submitted the first version of its Racial Equity Action Plan, outlining multiple goals for 2021. Some Commission highlights include authoring Resolutions on Racial Equity and the Ramaytush

Ohlone Land Acknowledgment, in late 2020 and early 2021. Acting Director Varner explained four members of the Rent Board Commission have attended racial equity training workshops, and the Department hopes to have all members attend by the end of 2022. Acting Director Varner told the Board that staff authored the Department's first Equitable Recruitment and Hiring Policy, which has been used to inform the numerous recruitments and hirings that the department has been engaging in for the last 9 months. She explained that another key goal was right-naming the formal name of the counselor position from 2975 Citizens Complaint Officer to 2975 Rent Board Specialist. Acting Director Varner also told the Board that the department has started monthly brown bags, where staff will discuss a particular topic, as a lot of the work just begins with having conversations never had before. She explained that the department submitted a progress report to the Office of Racial Equity, created an internal dashboard for tracking staff progress of the Racial Equity Action Plan, conducted a climate survey for the Board and staff.

XI. Calendar Items

July 12, 2022 – remote meeting via WebEx Events

A. Consideration of Appeals

6 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Klein.

B. Public Hearing regarding proposed Rules and Regulations Sections 13.10, 13.11, 13.12, 13.13, and 13.14 (Rent Board Housing Inventory).

XII. Adjournment

President Gruber adjourned the meeting at 8:45 p.m.