



London N. Breed
Mayor

Robert A. Collins
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
ARTHUR TOM
DAVID WASSERMAN

Tuesday, August 10, 2021
at 6:00 p.m.

Remote Meeting via video and videoconferencing
<https://bit.ly/3lnxXfh>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 146 242 5389

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 numerous orders of the county health officer and supplemental orders and directives were issued to slow and reduce the spread of COVID-19. Due to these declarations, orders, and proclamations, the Rent Board Commission's March 17, 2020 and April 14, 2020 meetings were cancelled.

In three memorandums, the Mayor and City Attorney detailed emergency orders suspending select laws applicable to boards, commissions, and other policy bodies. On May 6, 2020, the Rent Board Commission was authorized to hold its May 12, 2020 regular meeting during the shelter-in-place remotely. Subsequently, per Mayoral and City Attorney guidance, boards and commissions are allowed to meet without first obtaining Mayoral permission, so long as the meetings are held remotely. 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 August 10, 2021 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3lnxXfh>. The public comment call in instructions are available on the Rent Board's website at <https://sfrb.org>.

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 6:09 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Qian read the Ramaytush Ohlone Land Acknowledgment.

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III. Roll Call

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

Staff Present: Brandon; Collins; Flores; Koomas; Tom; Varner

Commissioners Not Present: Hung.

Commissioners Appearing Late: Dandillaya, 6:13 p.m.

IV. Approval of the Minutes

MSC: To approve the minutes of July 13, 2021.
(Wasserman/Qian: 8-0)

V. Remarks from the Public

A. David Bogachyk, subtenant at 1256 Fell Street #A (AL210054) said that when he was a subtenant he was subjected to harassment and there was a police incident and that the master tenant has filed an unlawful detainer; but the main question is whether the master tenant had exclusive use of the living room. At the hearing, the subtenant said, the master tenant said he had exclusive use of the living room, but the testimony has now changed. The subtenant asked for the appeal to be denied.

B. Meryl Macklin, the attorney representing the master tenant at 1256 Fell Street #A (AL210054) told the Board that the master tenant's testimony was not changed. The attorney said that at the beginning of the tenancy, the living room was open and accessible to the subtenant; the master tenant used the living room as an office; but the subtenant chose not to use the living room, and only used his bedroom, the kitchen and his bathroom. In March 2021, the attorney said, the master tenant became fearful due to the subtenant's restraining order, and that is when he began locking the living room door. Ms. Macklin said that the subtenant's claim that he was excluded from the living room for the entire tenancy was not supported by substantial evidence, and requested that the decision be reversed, and the revision to the rent should be from March 2021 forward, or that the case be remanded for further testimony.

C. Dennis Zaragoza, the attorney for the subtenant at 1256 Fell Street #A (AL210054) said that the master tenant admitted to taking things out of the living room that belonged to the subtenant shortly after the subtenant moved in; using the space as his workspace. Mr. Zaragoza said that there is substantial evidence that the master tenant wanted the subtenant out of the living room, and was intended to be for the master tenant's exclusive use.

D. John Voldal, the subtenant at 177 – 14th Street (AT210051) told the Board that the claim for disproportional share of rent was fully rejected and the claim for decreased housing services was partially rejected, and that there continue to be further developments.

VI. Consideration of Appeals

A. 150 Font Boulevard #10M

AL210052

The master tenant's appeal was 12 days late because she moved and did not have a permanent forwarding address.

Commissioner Wasserman recused himself from the consideration of this appeal because he represents the property owner Parkmerced.

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

The subtenant's petition alleging a disproportional share of rent was granted. The ALJ determined that the master tenant was liable to the subtenant for rent overpayments in the amount of \$10,249.86. The master tenant appeals on the basis that she did not receive a copy of the decision, and submits a Declaration of Non-receipt of Notice of Hearing or Decision.

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

B. 1544 Howard Street

AT210055

The subtenant's petition alleging a disproportional share of rent was granted. The ALJ determined that the subtenant petitioner's proportional share of the total rent was \$523.33 from August 1, 2020 through August 31, 2020, and determined that the master tenant was liable to the subtenant for rent overpayments in the amount of \$176.67. The subtenant appeals, contending that the master tenant charged him for a security deposit, which was not considered by the ALJ; that he never used the living room nor the master tenant's furniture; that the cost of the utilities should not include the streaming services bill; and that he should not have to pay \$50.00 per month for services since this was not disclosed at commencement of the subtenancy.

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

C. 1256 Fell Street #A

AL210054

The subtenant's petition alleging a disproportional share of rent was granted. The ALJ determined that the subtenant petitioner's proportional share of the total rent was \$808.40 from November 24, 2019 through December 31, 2019 and \$833.88 from January 1, 2020 through June 30, 2021, and determined that the master tenant was liable to the subtenant for rent overpayments in the amount of \$3,443.41. The master tenant appeals, contending that there was insufficient evidence to support the ALJ's decision that the subtenant was denied access to the living room for the entire subtenancy.

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

D. 177 – 14th Street

AT210051

The subtenant's petition alleging a disproportional share of rent and decreased housing services was partially granted. The ALJ found the master tenant liable to the subtenant in the amount of \$129.00 for an inadequate and unsafe electrical system from February 2, 2020 through June 12, 2020. The ALJ denied all of the subtenant's other decreased housing service claims, including for loss of closet; loss of landing storage; loss of kitchen common area space; loss of motorcycle parking in the subject courtyard; inadequate and leaking plumbing; hazardous and spongy floorboard; loss of quiet enjoyment; inadequate heat; lack of weather stripping; lack of window screens; inadequate mailbox access (no key); and broken bathroom shelf and mirror. The ALJ denied the subtenant's claim alleging a disproportional share of rent. On appeal, the subtenant contends that the ALJ was biased, that the decision contained factual inaccuracies, and that the master tenant did not submit clear evidence.

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

V. Remarks From the Public (continued)

A. John Voldal, the subtenant at 177 – 14th Street (AT210051) told the Board that the case was mischaracterized, and that the main basis was that evidence was not heard because there are some new developments, and things that were specifically called for by the ALJ, as key things that were reasons for his ruling, such as inspections, and that things the ALJ generally barred from the hearing, and he's surprised that no one tried to stand up for that.

B. A member of the public called regarding 177 – 14th Street (AT210051) and told the Board that the subtenant is not a trustworthy individual who made up a lot of lies, and that the Board came to the right conclusion to deny his appeal.

VII. Communications

A. Articles from the Guardian and the Financial Times.

B. Updated Ordinance reflecting the extension of eviction controls during the pandemic.

C. Workload statistics for June 2021.

VIII. Director's Report

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

Executive Director Collins said that he sent the Board a copy of the hearing request from the Board of Supervisors regarding file number 210844, concerning short term rental and

intermediate length occupancy enforcement, but no date has been set yet; according to the proposed law, the Rent Board is supposed to respond to any complaints from the public where landlords have made units available without the required disclosure that shows that the unit is subject to just cause. In regards to operations, Executive Director Collins said, the front counter was reopened in July on Monday, Wednesday, and Friday afternoons from 1-4 p.m., and he thanked Jennifer Rakowski and staff for reconfiguring the lobby and making a number of changes. He said that in September, most staff will come back to the physical office 2 days per week per Mayoral directive and HR guidance, and the department will further open to the public.

Executive Director Collins told the Board that he was thrilled to welcome two new counselors who have joined the Rent Board with a breadth of experience with the Rent Ordinance and landlord-tenant law - Diana Flores Martinez, who speaks Spanish and most recently worked at Dolores Street Community Services and Causa Justa::Just Cause, and Matthew Tom, who speaks Cantonese and previously worked at the Bar Association of SF, the Eviction Defense Collaborative, and the Housing Rights Committee. Both new employees introduced themselves.

Deputy Director Varner provided an update regarding reopening, and informed the Board that there have been no changes to the reopening timeline. She explained that commissions and boards continue to be prohibited from meeting in person (with limited exceptions), until such time that the Mayor and/or Board of Supervisors take action to permit in-person meetings, which has not yet occurred, and that staff do not know how this will look in regards to distancing, masking, requirements around remote nor in-person public comment. Deputy Director Varner did find out that Room 610 would be available for use for evenings meetings in the fall.

IX. Old Business

A. Board Racial Equity Work

Deputy Director Varner continued the discussion from the July meeting regarding scheduling racial equity and implicit bias training. She explained that she received information from the department's deputy City Attorney regarding quorum issues presented by training attendance, which indicate that groups comprised of less than a majority of the commissioners may participate in separate training sessions, provided that a member of one group does not share any of one group's discussions/views with a member of another group, and that the commission should not vote on or even choose which members go to which trainings. Deputy Director Varner will select two commissioners at a time to attend an implicit bias training at a mutually agreeable time.

X. New Business

(There was no New Business.)

XI. Calendar Items

September 14, 2021 – remote meeting via Webex Events

A. Consideration of Appeals

5 appeal considerations

President Gruber will read the Ramaytush Ohlone Land Acknowledgment.

XII. Adjournment

President Gruber adjourned the meeting at 7:07 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.