



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, September 14, 2021
at 6:00 p.m.

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

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2493 750 2326

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 September 14, 2021 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3kWxKOh>. 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 6:06 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

President Gruber read the Ramaytush Ohlone Land Acknowledgment.

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III. Roll Call

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

Staff Present: Brandon; Collins; Field; Koomas; Pandhoh; Varner.

Commissioners Not Present: Klein.

IV. Approval of the Minutes

MSC: To approve the minutes of August 10, 2021.
(Wasserman/Tom: 9-0)

V. Remarks from the Public

A. Allan Kaplan, tenant at 3839 Divisadero Street #306 (AT210057) said that he submitted clear and substantiated evidence to meet his burden, that the ALJ consistently ignored relevant evidence and gave great weight to the landlord's remarks, and that the ALJ's decisions are consistently pro-landlord. He said that Rules and Regulations Section 11.18 is biased against tenants, particularly those who lack financial resources to hire lawyers, and the landlord's representative was unwilling to enter into settlement negotiations. He urged the Board to remand the case.

B. Barbara Lawrence, landlord at 2849 Fillmore Street #1 (AL210059 and AT210060) told the Board that she rushed to install a new heat system and added air conditioning to the unit, solely to accommodate the new tenants, and it now saves them hundreds of dollars a month. She said that had she delayed the HVAC installation by 4 days, 100% of the passthrough would have been automatically certified. She said she did the right thing, and requests that her appeal be granted and that it is only fair that the full amount be certified.

V. Consideration of Appeals

A. 3334 San Bruno Avenue #6

AT210053

The tenant's petition alleging decreased housing services was denied. The ALJ found that the changes in size, location and operation of the building garbage chutes did not constitute a substantial decrease in housing services. The tenant appeals, contending that the reasoning of the decision was based on false information.

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

B. 935 Geary Street #903

AT210056

The tenant's petition alleging decreased housing services due to the intrusion of water and moisture from an upstairs unit was denied. The ALJ found that, based on all the

evidence, including the landlord's attempts to remedy the issue by evicting the upstairs tenant and offering to relocate the tenant in a different unit, the tenant failed to meet her burden of proving a substantial decrease in housing services. The tenant appeals, contending that she made a report to the resident manager in 2016, not 2018; that she was only offered relocation to a smaller, updated unit for a higher rent; and that the landlord never offered relocation to unit 1010.

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

C. 25 Sharon Street #6

AL210058

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 \$718.85 from January 1, 2020 through September 30, 2020, and determined that the master tenant was liable to the subtenant for rent overpayments in the amount of \$2,677.59. The master tenant appeals on the basis that the percentage of the overpayment due to the subtenant should be based on the percentage he pays out of pocket, rather than the total rent paid by the subtenant and his rental subsidy, and requests that the ALJ specifically indicate the amount that the subtenant is refunded based on the percentage of rent the subtenant pays out of pocket.

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

D. 2849 Fillmore Street #1

AL210059, AT210060

The landlord's petition for a capital improvement passthrough to 1 of 5 units was granted. The ALJ only partially certified the full cost of two new electric heater/air conditioner units because the landlord rented the unit to the tenants on August 19, 2019, which was within six months of the installation of the electric wall heaters/air conditioners in the bedroom and living room on February 6-7, 2020. The landlord appeals, contending that she would not have installed a new HVAC system in the unit but for the tenants' complaints and to accommodate the tenants; and had she known about the 6-month rule, she would have waited an additional 4 days to install the new HVAC system, and that the full cost of the work should be certified. The tenants also appeal, arguing that partial cost of the work should not have been certified because if a code inspector had come to the property, the landlord would have been cited for a code violation, which was evidenced by the fact that the landlord installed a third HVAC unit; and that if all three HVAC units had been properly installed at the same time, the 6 month rule would have applied to all three units and no part of the passthrough amount would have been certified.

MSC: To deny both appeals.
(Mosbrucker/Wasserman: 5-0)

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E. 3839 Divisadero Street #306

AT210057

The landlord's petition for a capital improvement passthrough to 5 of 18 units was granted. The ALJ certified the cost of exterior painting; roof replacement and elevator modernization. The tenant in one unit appeals, arguing that: the work was only necessary due to a failure to perform ordinary maintenance, or a lack of necessity or because the work was a luxury item; that the ALJ ignored the tenant's testimony and favored the landlord's testimony; and that the ALJ is biased.

Commissioner Wasserman recused himself from the consideration of this appeal because he represented the landlord in the past.

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

IV. Remarks From the Public (continued)

A. *(There were no remarks from the public during the second public comment period.)*

VI. Communications

A. Articles from the SF Chronicle and Mission Local.

B. Workload statistics for July 2021.

C. Amended SF Administrative Code Chapter 37A.

VIII. Director's Report

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

Executive Director Collins welcomed Kion Sawney, who was viewing the meeting and is newly appointed but not yet sworn in to the Rent Board Commission. Executive Director Collins announced new promotions and staff, including the second Rent Board supervisor Anita Pandhoh, who worked at the department for over two years and at Bay Area Legal Aid for 7 years, and speaks Hindi and conversational Spanish. He also introduced new counselor Abraham "Abe" Field, who worked at the Eviction Defense Collaborative and at Tenderloin Housing Clinic, and who speaks Spanish.

In regards to operations, Executive Director Collins told the Board that the front counter is now available for counseling 5 days a week from 9:00 a.m. to 5:00 p.m. He said that some staff have come back to working in the office, and the City extended the requirement that all staff will need to be on site a minimum of two days a week beginning November 1. In an update on the office space and move, Executive Director Collins said that he has been working hard to get 12,700 feet of space on the 6th & 7th floors of 25 Van Ness, supported by the commissioners. Have signed an agreement with DPW Architecture for conceptual design, schematic design, design development, and construction documents, which phase is scheduled to be completed by March 9, 2022, and the move is on track to occur in December

2022. Additionally, he said, the department is procuring equipment to use the additional space on the 3rd floor. He said told the Board that staff Joey Koomas and Christina Varner presented to the Planning Department regarding housing services and amendments to the Planning Code for accessory dwelling units (ADUs). Executive Director Collins also informed the Board that there would be a hearing at the Board of Supervisors' Land Use and Transportation Committee regarding short term rentals, intermediate length occupancy and corporate rentals on September 27, file number 210844. Executive Director Collins then confirmed with the Commissioners that they would no longer like to receive paper copies of pending legislation from staff.

Deputy Director Varner provided an update about future board meetings, explaining that there was a slight possibility that the Board would have to meet in person in October, and was also possible that the Board might have to meet in person in November, but sought input as room availability with required technology was not certain for November and going forward.

Deputy Director Varner provided the Commissioners information regarding the Rent Board Fee. She explained that the Rent Board Fee legislation went into effect on September 4, and the legislation tasks the Rent Board with administering its own fee collection, so staff are in process to begin collection of the Fee. Deputy Director Varner told the Board that staff are very grateful to have been working closely and strongly collaborating with several partners, including the department's new portal vendor and with staff at the Office of the Treasurer and Tax Collector, 311, and ReproMail. She explained that property owners will receive a postcard in the mail in October alerting them to the change in method of collection for the Fee beginning this year, and that the Fee invoice itself will be mailed to property owners in November (now changed to December), and that the deadline for requesting exemptions will be indicated on the invoice. Importantly, she said, the deadline to pay the fee without penalty will be on March 1, 2022. She said that property owners will be able to pay the fee online by credit card or eCheck, which the Rent Board prefers, but there will also be a paper check payment method. Deputy Director Varner said that if payment is not received by March 1, then a 5% penalty will be assessed, and then an additional 5% if not received by April 1, and then an additional 5% if not receive by May 1, and if the fee is not received by June 1, then the matter will be referred to the City's Bureau of Delinquent Revenue. She said that the department looks forward to working with property owners and getting the word out this fall.

IX. Old Business

(There was no Old Business.)

X. New Business

(There was no New Business.)

XI. Calendar Items

October 12, 2021 – remote meeting via WebEx Events

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A. Consideration of Appeals

4 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – to be determined.

XII. Adjournment

President Gruber adjourned the meeting at 7:03 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.