



London N. Breed
Mayor

Christina A. Varner
Acting 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
KION SAWNEY
ARTHUR TOM
DAVID WASSERMAN

Tuesday, October 12, 2021
at 6:00 p.m.

Remote Meeting via video and videoconferencing
<https://bit.ly/3F9jrzg>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2482 219 3526

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 October 12, 2021 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3F9jrzg>. 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 6:08 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; Tom; Wasserman.

Staff Present: Brandon; Collins; Koomas; Varner.

Commissioners Not Present: Dandillaya.

IV. Approval of the Minutes

MSC: To approve the minutes of September 14, 2021.
(Wasserman/Qian: 8-0)

V. Remarks from the Public

A. Matthew Towers, the landlord at 1225 19th Street (AL210062) asked the Board to consider the a number of substantive errors in the decision; the ALJ's disregard for the evidence that the tenant claimed a homestead exemption on a separate property; and that no clear standard was employed to determine whether or not the tenant continues to occupy the unit.

B. Andrea Alfonso, the tenant at 1225 19th Street (AL210062) told the Board that her landlord's claims are "factually untrue" and that she prevailed in the case following a three-hour hearing in which she defended herself against the landlord, his private investigator, and a lawyer and that the landlord "just doesn't appreciate that". The tenant maintained that she is not absent from the property, as she testified at the hearing.

C. Constance Davis, the tenant at 525 Page Street (AT210063), told the Board that she did not understand the Commissioners comments or the Board Meeting procedures. She stated that she missed the hearing in her case because she had just been released from the hospital, was immobile, and did not know when the hearing was scheduled. She stated that she had someone else appear on her behalf. The tenant stated that she is a good tenant, who has resided in the unit since 1994, and that she has evidence that can prove her occupancy and that she paid rent to the landlord. The tenant asked if she could speak to someone after the Board Meeting that could help her understand what's happening. The tenant states that she does not want to be out on the streets and asked the landlord to have "some heart" for her.

VI. Consideration of Appeals

A. 457 Utah Street

AT210064

The tenant's petition alleging decreased housing services was denied. The ALJ found that there was insufficient evidence to support a finding that the use of the storage shed was included in the original rental agreement or that it was verifiably promised by the landlord prior to commencement of the tenancy. The tenant appeals, contending that there is

ample evidence to support his claim that the landlord verbally offered the tenant use of the storage unit at the inception of the tenancy and that the tenant has continually used the storage unit throughout the duration of the tenancy.

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

B. 257 Lowell Street, In-Law Unit

AL210061

The tenant's petition alleging decreased housing services was granted. The ALJ found that the landlords' denial of the tenant's request to add an additional occupant was unreasonable and constituted a substantial decrease in housing services, and that the landlords are liable to the tenant for rent reductions in the amount of \$7,200.00. The landlord appeals, contending that the tenant did not request to add a specifically named roommate to the lease; and according to the original lease, only two tenants are allowed in the unit.

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

C. 525 Page Street

AT210063

The landlords' petition for an unlimited rent increase under the Costa-Hawkins Rental Housing Act and/or pursuant to Rules and Regulations Section 1.21 was granted. The ALJ determined that at the time the rent increase notice was served on May 29, 2020, original occupant Eugene Befford no longer permanently resided in the subject unit and Constance M. Davis was a subtenant who did not reside in the unit prior to January 1, 1996, and therefore the landlords' rent increase to \$2,400.00 was authorized by Civil Code Section 1954.53(d)(2) of Costa-Hawkins. Subtenant Davis appealed, contending that neither she nor respondent Jeffrey Dillon received notice of hearing, and submitted a Declaration of Non-Receipt of Notice of Hearing. At the January 26, 2021 meeting, the Board voted to accept the appeal and remand the case for a new hearing. In the remand decision, the ALJ determined that the landlords met their burden of proving that subtenant Davis was a post-1/1/96 subtenant when the rent increase notice was served, and that subtenant Davis did not establish a direct landlord-tenant relationship with the landlords, and therefore the landlords' rent increase to \$2,400.00 was authorized by Civil Code Section 1954.53(d)(2) of Costa-Hawkins. On appeal of the remand decision, subtenant Davis submitted a Declaration of Non-Receipt of Notice of Hearing or Decision, stating that she did not receive the notice of hearing, that she did not know the date of her hearing, that she has proof that she has been living in the property since 1994, and the landlords knew she was there and accepted her checks.

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

D. 1225 – 19th Street

AL210062

The landlord's petition for an unlimited rent increase pursuant to Rules and Regulations Section 6.14 was denied. The ALJ determined that at the time the rent increase notice was served on July 1, 2020, original occupant Andrea Alfonso permanently resided in and remained an occupant in lawful possession of the subject unit, and therefore the landlord's rent increase to \$4,700.00 is not authorized by Civil Code Section 1954.53(d)(2) of Costa-Hawkins. The landlord appeals, contending that the tenant has not resided in the subject unit for years and that there were factual inaccuracies in the decision that, were they corrected, would change the outcome of the decision.

MSC: To accept the appeal and remand the case to consider only the errors raised by the landlord in the appeal, with a hearing to be held only if necessary.
(Mosbrucker/Qian: 5-0)

IV. Remarks From the Public (continued)

D. Constance Davis, the tenant at 525 Page Street (AT210063), repeated that she did not understand the Commissioners' discussion. She asked the Board to provide her another chance, because she lived in the unit for 26 years and the landlord had accepted her rent knowing that she lived there. She stated that she suffered severe burns by a stove and was in the hospital for 30 days. The tenant stated that the outcome is unfair.

E. Andrea Alfonso, the tenant at 1225 19th Street (AL210062) said that she was dismayed that a Commissioner had claimed there were pages of errors in the decision when there was not. She said that she did not respond because the landlord provided no new evidence on appeal. She stated that although the Board spent a lot of time discussing it, she never claimed to have two residences. She states that she wasn't hesitant to answer questions at the hearing, but the case went "way off the rails" from the landlord's original claim that she was residing at a different residence, and she felt reluctant to respond to issues outside of that claim because that was all she had prepared for without a lawyer.

F. Matthew Towers, the landlord at 1225 19th Street (AL210062) urged the Board to listen to the transcript of the hearing to verify the inconsistencies and stated that although some of the errors were administrative, some of the errors were substantive and concerned the timeline of the tenant's absence from the unit. The landlord asserted that the tenant does not live in the subject unit, and that she has other residences as demonstrated by the evidence. The landlord asked the ALJ to review the record of the hearing and the inconsistencies in the testimony that was given during the hearing, and ascertain the "truth of the matter".

VII. Communications

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

A. Articles from the SF Chronicle, CityWatch Los Angeles, Mission Local, and Yahoo News.

B. A letter from the SF Apartment Association to the San Francisco Board of Supervisors regarding COVID-19 tenant protections.

C. Legislation related to the extension of temporary tenant eviction protections, Board of Supervisors File Nos. 210-962 and 210-963.

D. Workload statistics for August 2021.

VIII. Director's Report

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

Executive Director Robert Collins informed the Board that October 1 marks the date that the Rent Board will be authorized to hire new staff that were approved in the FY 21-22 budget, which will include a high-level manager, two IT positions, and several new Rent Board Fee and Inventory positions. He stated that during this fiscal year, the Rent Board will begin collecting its own Rent Board fee, and implementing the Housing Inventory legislation for buildings of ten units or more. He stated that department will work with the office of 311 to help the public with questions related to these changes, and then hire new Rent Board staff to answer questions that cannot be resolved by 311. He stated that in total, the Rent Board intends to fill a total of 14 new positions in this fiscal year. Director Collins stated that staff, and specifically Deputy Director Christina Varner, have been working tirelessly to create the Rent Board's online "portal", which will be used to collect the Rent Board fee and implement the Housing Inventory legislation. He informed the Board that although some staff continue to work remotely, the Rent Board's office is now open to the public five days per week, and that staff remain available to assist the public by phone and email. Director Collins then asked Administrative Law Judge Joey Koomas to provide the Commissioners with a summary of newly proposed legislation that will amend the Planning Code and the Rent Ordinance regarding Accessory Dwelling Units (ADUs) and tenant housing services.

Administrative Law Judge Koomas provided a summary of the proposed legislation as follows. The current legislation will amend the Rent Ordinance to clarify that the issuance of a permit to construct an ADU does not, in and of itself, constitute "just cause" for the purpose of removing a tenant's housing service. The legislation will also amend the Planning Code to require a landlord who intends to build an ADU under the City's local program to first submit a sworn declaration to the Rent Board before applying for an ADU permit. The Rent Board will have to create the form declaration and decide what to include, but it must include (1) a description of any tenant housing services that are located in a part of the building where the ADU will be constructed, and (2) state whether or not construction of the ADU will result in the reduction or removal of any tenant housing services. The declaration must be filed with the Rent Board and provided to the tenants in the building. Tenants will have 30 days to contest the information in the landlord's declaration by requesting a hearing at the Rent Board. If no hearing is requested, the Rent Board will transmit the declaration to the Planning Department who can then process the landlord's ADU application. If a tenant does request a hearing, the Rent Board will conduct a hearing and issue a decision on the issue of whether the ADU project will result in the removal of any tenant housing services. The final decision will be provided to the Planning Department, which can only approve the landlord's ADU permit if the Rent Board

determines that no tenant housing services will be removed by the project. In response to a question by Commissioner Wasserman, Senior Administrative Law Judge Koomas informed the Board that the ADU legislation had not yet passed and would be discussed at the Board of Supervisor's Land Use Committee on the following Monday.

Director Collins then informed the Board that he received a letter from the SF Apartment Association (SFAA) regarding the Recology settlement, and that the letter asked the Board to consider mediating any disputes that arise between landlords and tenants related to the utility settlement. He thanked the SFAA for their letter and stated that the Rent Board would try to mediate any tenant decrease in housing services petition, but clarified that when a tenant has a contractual agreement with the landlord that requires them to pay their own utilities, it is the long-term precedent of the Rent Board that such utility charges are not part of the tenant's base rent. If the utilities are not provided by the landlord and are not part of the tenant's base rent, then any dispute concerning the utility amounts would generally have to be resolved in state court.

Director Collins then stated that it was very difficult for him to recently announce that he will be retiring from the Rent Board for personal reasons, but that he needed to move on with the next chapter of his life. He said it had been an amazing 24 years, and that it had been a pleasure to serve with the Commissioners and staff. Director Collins emphasized the importance of the Rent Board's work to the community, and stated that the work has been very rewarding for him. He thanked the Board for all their support and said that although it was a difficult time for the transition to occur, he is very pleased to leave the agency in good hands with a talented group of leaders who are dedicated public servants. He stated that Deputy Director Varner will be the new acting Director of the Rent Board, and that she has been deeply involved in all of the recent technology updates, the department's budget, and every other decision of the department. He thanked the Commission for all of their support in passing the budget, and he thanked Mayor Breed and the Board of Supervisors for all of their help in providing the resources the Board needs to meet their needs in the years to come, including additional office space. He stated that all of the Board's work over the past few years has been a collaborative effort, and that the remaining staff will carry on that work. Director Collins said he was very proud of the Board's work and thanked the Commission for the opportunity to serve them.

Deputy Director Varner then provided the Board with an update regarding the Rent Board fee as follows. First, in mid to late October, the Rent Board will mail property owners a postcard that will alert them to the change in the Rent Board fee collection method beginning this tax year. The postcard will also explain that owners have a 30-day window, beginning on November 15, to request an exemption from the Rent Board fee. Second, she stated that a few weeks after the postcard is mailed, an informational letter will be sent to owners that explains how to request an exemption from the Rent Board fee, and will advise owners to use the new Rent Board portal to request an exemption. The owner can log into the portal using an automated pin that will be shown on the instructional mailer. Once the exemption request is submitted, the owner will receive a confirmation from the Rent Board. She expects that all of the requests will be reviewed by the Rent Board before the Rent Board fee invoices are mailed out in January. An owner who lacks access to the internet may request a paper exemption form and can seek assistance from staff. Third, the formal Rent Board fee invoice will be mailed in January, once the exemption data is captured, and payment of the Rent Board fee is due by March 1st, with penalties accruing after that date. She stated that the process will be

complicated the first year, but believes it will be a success. In response to a question from Commissioner Wasserman, Deputy Director Varner stated that online access to the Housing Inventory, which will also rely on the new online portal, is expected to go live on May 1. Finally, she stated that if any groups within the landlord-tenant community would like more information or assistance regarding these changes, she would be happy to provide it.

IX. Old Business

(There was no Old Business.)

X. New Business

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

Deputy Director referred the Commission to a recent memo released by the City Attorney, which contained updated advice regarding the meetings of policy bodies during the Covid-19 emergency. She stated that the state legislature recently enacted AB-361, which facilitates the ability of policy bodies to meet remotely, however, beginning October 1, policy bodies must make specific findings at least once every 30 days to continue holding remote meetings without complying with other state laws that would otherwise apply. She stated that the Board had been provided a “findings template” that was provided to all the City Boards and Commissions. Commissioner Mosbrucker stated that under the circumstances, it was her preference for the Rent Board Commission to make the required findings so that they could continue to meet remotely for at least the next couple of months. Deputy Director Varner stated that the Board would need to make the findings and pass a resolution at each Board meeting in order to continue meeting remotely. Commissioner Wasserman then made a motion, seconded by Commissioner Mosbrucker, to make a resolution making findings to allow teleconferenced meetings pursuant to California Government Code 54953(e). In response to a question by Commissioner Qian, Deputy Director Varner stated that if the Commission’s meetings are held less than 30 days apart but held monthly, the best practice is to make a resolution with findings at every meeting. After Deputy Director read the entire “findings template” into the record, the Board voted unanimously to approve Commissioner Wasserman’s motion passing the resolution. (Wasserman/Mosbrucker: 8-0)

XI. Calendar Items

November 9, 2021 – remote meeting via WebEx Events

A. Consideration of Appeals

7 appeal considerations (four consolidated)

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Crow.

XII. Adjournment

Before adjournment, Commissioner Mosbrucker thanked newly appointed tenant alternate Commissioner Kion Sawney for observing the meeting as a member of the public.

Commissioner Wasserman thanked Director Collins for his work, and stated that he should be very proud of his work and the excellent job he did as the Executive Director. He stated that Director Collins will be thoroughly missed, and that many in the landlord community were sad to hear of his departure. Commissioner Mosbrucker stated that from the tenant's side as well, Director Collins will be deeply missed. Commissioner Qian agreed, and said that Director Collins was one of the reasons the Rent Board had "moved into the 21st Century". Commissioner Hung stated that they were all feeling very sad, which shows how important Director Collins is to the organization. Commissioner Klein said that it was a testament coming from the entire community that Director Collins had done a wonderful job. Commissioner Tom stated that Director Collins had been very welcoming to him, and was a "beacon" of guidance. President Gruber stated that it was a pleasure to work with Director Collins, and that he would be sorely missed. Director Collins thanked the Board for their support, which he said he appreciated very much, and that the work of the office would continue in his absence.

President Gruber adjourned the meeting at 7:52 p.m.