



London N. Breed  
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*Executive Director*

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*PRESIDENT*

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CATHY MOSBRUCKER  
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KION SAWNEY  
ARTHUR TOM  
DAVID WASSERMAN

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

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

Remote Meeting via video and teleconferencing  
<https://bit.ly/3l8RnOs>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2494 627 9389

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 June 14, 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 July 12, 2022 to [rentboard@sfgov.org](mailto:rentboard@sfgov.org). The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3l8RnOs>. 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 6:18 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Klein read the Ramaytush Ohlone Land Acknowledgment.

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### III. Roll Call

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

Commissioners not Present: Sawney.

Staff Present: Brandon; Flores; Koomas; Varner.

### IV. Approval of the Minutes

MSC: To approve the minutes of June 14, 2022.  
(Mosbrucker/Qian: 8-0)

### V. Remarks from the Public

A. Laura Campbell, attorney for the landlord at 455 Hyde Street (AL220022), stated that the subject property consists of 44 units adjacent to a shared backyard, and that any reduction in the square footage of the backyard in this case was not substantial; that the decision is problematic because the ALJ's determination seems to be based on the landlord's motivation for performing the work, which is irrelevant; and that the tenant's lease specifically states that no other portion of the building is included for lease, which contradicts the ALJ's finding that the lease was silent regarding the tenant's use of the backyard.

B. Jaime Bombard, attorney for the landlord at 1221 Jones Street, #PH-C2 (AL220019), told the Board that the ALJ's decision constitutes an abuse of discretion and was not supported by the evidence. She stated that any decrease alleged by the tenants was not substantial and that the virtual doorman replaced all the housing services provided by the prior in-person doorman. Ms. Bombard further stated that the virtual doorman service actually constitutes an enhancement to the tenants, because it operates continuously, without any interruption in service, and reduces COVID-19 exposure; and that the tenants failed to carry their burden of proof in this case.

C. Brad Hirn, non-attorney representative for the tenants at 455 Hyde Street (AL220022), said that the landlord's argument in this appeal is that the language of the tenants' lease should override the tenant protections contained in the Rent Ordinance. He also stated that use of the shared backyard was a housing service provided to the tenant at the inception of the tenancy, and that the subsequent conduct of the parties confirms that fact.

D. Justin Goodman, the attorney for the landlord at 1589 Sacramento Street, #9 (AL220020), said that the owner requests that the Board remand the case and direct the ALJ to do two things: apply the appropriate standard under Costa-Hawkins and find that tenant Christine Nguyen was no longer an original occupant when she resumed occupancy of the subject unit after living elsewhere for approximately 15 years; and determine whether or not the tenant respondents listed in the landlord's petition continue to permanently reside in the unit.

E. Selena Aument, the tenant at 455 Hyde Street #64 (AL220022), stated that she was shown the backyard and garden area of her building at the time she moved in, and she's had

access and use of that area ever since, which she uses on a regular basis. She stated that the landlord's proposed ADU project would reduce the size of the backyard by approximately 1/3, which constitutes a substantial reduction in housing services.

F. Chris Schulman, a non-party resident of the neighborhood where 455 Hyde Street is located (AL220022), stated that he has been following this ADU project and the resulting Rent Board decision, and that the Rent Board should uphold the ALJ's decision in this case. He stated that the tenants at 455 Hyde Street were promised use of the backyard and garden area at the time they moved in, and that the landlord's proposed reduction in the size of the backyard will result in a substantial reduction in housing services.

G. Heather Hilleren, a tenant at 1221 Jones Street, #PH-C2 (AL220019), thanked the Rent Board for its consideration of her case, and that although the ALJ's Decision did not grant all of her claims, she found the Rent Board to be fair, impartial, and just.

#### VI. Consideration of Appeals

##### A. 3024 San Bruno Avenue, #B

AL220018

The landlord's appeal was filed 36 days late because he did not receive the Notice of Hearing or the Decision, which were mailed to the landlord's father, a former owner of the property.

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

The tenant's petition alleging an unlawful rent increase and failure to perform repairs and maintenance required by law was granted in part and denied in part. The landlord was found liable for rent overpayments in the amount of \$1,234.34, but the tenant's claim that the landlord failed to perform repairs and maintenance required by law was denied. On appeal, the landlord contends that he did not receive Notice of the Hearing and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. Should the landlord again fail to appear, no new hearings will be scheduled.  
(Wasserman/Gruber: 5-0)

##### B. 1221 Jones Street, #PH-C2

AL220019

The tenants' petition alleging decreased housing services was granted in part, and the landlord was found liable to the tenants in the total amount of \$11,132.46 for the loss of the front desk concierge and weekly housekeeping services, and for the condition of the interior walls. The landlord appeals, arguing in part that neither the replacement of the front desk concierge with a virtual doorman service, nor the discontinuation of weekly housekeeping services, constitute a substantial decrease in housing services.

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

Commissioner Wasserman recused himself from the consideration of this appeal because, although he did not represent the owner in this matter, he has represented the owner in the past.

MSC: To deny the appeal.  
(Mosbrucker/Qian: 3-2; Gruber, Tom dissenting)

C. 1589 Sacramento Street, #9

AL220020

The landlord's petition for a rent increase pursuant to the Costa-Hawkins Rental Housing Act and/or Rent Board Rules and Regulations Section 1.21 was denied. The ALJ found that an original occupant, Christine Nguyen, continues to permanently reside in the unit, and therefore the landlord's rent increase effective December 15, 2019 was found to be null and void. On appeal, the landlord contends that Ms. Nguyen is no longer an original occupant because she temporarily lived elsewhere for some period of time, and that the ALJ should have determined whether or not Ms. Nguyen's parents also continue to permanently reside in the unit.

MSC: To accept the appeal and remand the case to find that tenant Christine Nguyen is no longer an original occupant.  
(Wasserman/Gruber: 3-2; Mosbrucker, Qian dissenting)

D. 3221 Market Street

AL220023

The landlord's appeal was filed 1 day late for unspecified reasons.

The tenants' petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act was granted. The ALJ found that the landlord did not meet the burden of proving that none of the original occupants continue to permanently reside in the subject unit, and therefore the landlord's rent increase effective January 1, 2022 was found to be null and void. The landlord appeals for unspecified reasons.

This appeal was withdrawn on July 11, 2022.

E. 2730 Sacramento Street

AT220021

The tenants' objection to the landlord's ADU Declaration was denied. The ALJ found that the tenants failed to meet the burden of proving that the relocation of their storage unit as a part of the landlord's proposed ADU construction project will result in the removal or substantial reduction of a housing service pursuant to Rent Ordinance Section 37.2(r). On appeal, the tenants argue that since the ADU construction project has not yet been performed, it is impossible for the ALJ to determine whether or not the new storage unit is comparable to the former one.

This appeal was withdrawn on July 11, 2022.

F. 455 Hyde Street

AL220022

The tenant's objection to the landlord's ADU Declaration was granted. The ALJ found that the landlord's proposed ADU construction project, resulting in the partial loss of a shared backyard, constitutes a substantial reduction in housing services pursuant to Rent Ordinance Section 37.2(r). On appeal, the landlord argues that use of the backyard was not a housing service provided by the landlord in the tenant's lease and that any reduction in the usable square footage of the backyard as a result of the ADU construction project is not substantial.

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

MSC: To deny the appeal.

(Mosbrucker/Qian: 3-2; Gruber, Wasserman dissenting)

V. Remarks from the Public (cont.)

A. Noni Richen, President of the Small Property Owners of San Francisco Institute, stated that her comments were related to the proposed Rent Board Housing Inventory Regulations. On behalf of her membership, she voiced general objections to the requirements of Rent Ordinance Section 37.15 and the public disclosure of landlords' business information. She stated that if the Rent Board's Housing Inventory Portal is to allow tenants to comment on a property owner's Housing Inventory submissions, owners must be allowed to review and verify the accuracy of those comments beforehand.

**VII. Public Hearing**

**7:00 p.m. Proposed Amendments to Rules and Regulations Sections 13.10, 13.11, 13.12, 13.13, and 13.14 – Reporting Obligations Under Ordinance Section 37.15 (Rent Board Housing Inventory)**

President Gruber opened a public comment period for members of the public to speak specifically about the proposed Rules and Regulations Sections 13.10, 13.11, 13.12, 13.13, and 13.14. One member of the public spoke.

A. Marco Samson, the attorney for the tenants at 1589 Sacramento Street, #9 (AL220020), stated that the attorney who initially prepared this landlord petition was Daniel Stern, and that he believes Mr. Stern was at that time in the same law firm as Commissioner Wasserman. He stated that he wanted confirmation from the Board that it was appropriate and ethical for Mr. Wasserman to vote on this appeal.

After a brief discussion, Commissioner Mosbrucker requested that proposed Regulation 13.11 be amended at line 19 to include the word "only" after the sentence that begins with "For the purpose of the reporting obligations imposed by Ordinance Section 37.15(b)(2)(C)". The Commissioners then made and voted upon the following motion:

MSC: To adopt the proposed Regulations Sections 13.10, 13.11, 13.12, 13.13, and 13.14 as amended by Commissioner Mosbrucker.  
(Wasserman/Tom: 8-0)

### VIII. Communications

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

- A. Articles from the SF Chronicle, SF Public Press, SF Examiner, Mission Local, KQED News, and Wall Street Journal.
- B. Monthly workload statistics for May 2022.

### IX. Director's Report

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

Acting executive director Christina Varner said that she was humbled and honored and thanked Mayor Breed for her support and making her appointment to Executive Director a reality. She thanked President Gruber and all the Commissioners for their support and that it meant a great deal. She told the Board she intends to serve the Board, the Rent Board staff, and the people of the City and County of San Francisco ethically, transparently, fairly, and compassionately. She said that her first-year goals are to get the Housing Inventory in a very good state and then move it into its next phase, concentrating on informing the owner community why they need to report into the Housing Inventory.

In regards to current departmental operations, Acting Director Varner said, the office remains open to the public at reduced hours for the past month, in line with City guidance and still with support from the public, and that phone counseling line remains open to the public and busy as usual, with the hours of 9:00 a.m. – 12 noon and 1:00 p.m. – 4:00 p.m., Monday through Friday, excluding holidays. She said that staff continue to work on a hybrid basis both at home and in the office following Citywide policy. She said that, as has been the case for several months, the department remains actively engaged in recruitments for a number of positions, and hopes that a new staff member will observe the next board meeting. She said that the department continues to work with DPW Architecture and Bureau of Building Repair and other collaborators on the new space on the 6<sup>th</sup> and 7<sup>th</sup> floors.

In regards to the Housing Inventory, Acting Director Varner stated, the department had a spike of activity from the public in the month of June and into the first week of July, which was strongly supported by the Public Information Unit counselors. She explained that staff have been working to refine technical issues and make things better for the public and staff. She said that owners have been able to obtain licenses allowing them to raise their tenants' rents. She said that the department will soon move into the next phase where staff will be outreaching to small property owners whose first Housing Inventory reporting deadline is March 1, 2023, and preparing for the next Rent Board fee cycle this fall.

Acting Director Varner provided an update in regards to legislation. Firstly, she explained that Board of Supervisors (BOS) File No. [220131](#) reinstated the local eviction moratorium for non-payment of rent that became due on or after July 1, 2022, if the non-payment was caused by COVID-19 related financial hardship. This legislation was initially signed by the Mayor in March of 2022, but was deferred until July 1, 2022 due to the extension of California's statewide eviction moratorium, which prohibited the enactment of any new local eviction moratoria prior to July 1, 2022. She then said that BOS File No. [220446](#), which waives certain building density limits provided those newly constructed units are subject to the rent increase limitations of the Rent Ordinance, was approved by the Board of Supervisors this afternoon and is now awaiting the Mayor's signature. She said that 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 and Transportation Committee. Acting Director Varner told the Board that BOS File No. [220341](#), regarding Ellis Act evictions, was signed by the Mayor on June 17<sup>th</sup> and goes into effect on July 18<sup>th</sup>. 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, she told the Board that BOS File No. [220636](#), a ballot initiative to amend the City Charter is in its third draft and is currently with the Rules Committee. The ballot initiative would 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.

X. Old Business

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

President Gruber made a motion to confirm the Mayor's appointment of Christina Varner as the new Executive Director of the Rent Board, which was seconded by Commissioner Mosbrucker. President Gruber thanked Ms. Varner for all her work as the Acting Executive Director, which he said gave the Commissioners great confidence in their decision to recommend her nomination to the Mayor. He also stated that the Commissioners looked forward to working with Ms. Varner in the future. Ms. Varner thanked the Commission, Mayor Breed, and Rent Board staff for their support. The Commissioners then voted upon the following motion:

MSC: To confirm the appointment of Christina Varner as the Executive Director of the Rent Board.  
(Gruber/Mosbrucker: 5-0)

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

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 teleconferenced meeting on August 9, 2022 pursuant to California Government Code 54953(e).  
(Wasserman/Mosbrucker: 7-0)

XI. New Business

*There was no new business.*

XII. Calendar Items

August 9, 2022 – remote meeting via WebEx Events

A. Consideration of Appeals

3 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Mosbrucker.

XIII. Adjournment

President Gruber adjourned the meeting at 8:36 p.m.