



London N. Breed  
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**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD**

Tuesday, August 9, 2022  
at 6:00 p.m.

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

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2487 832 7053

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 July 12, 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 August 9, 2022 to [rentboard@sfgov.org](mailto:rentboard@sfgov.org). The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3PSFXkQ>. 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 6:06 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; Mosbrucker; Qian; Sawney; Tom; Wasserman.

Commissioners not Present: Klein.

Staff Present: Brandon; Flores; Gragasin; Koomas; Varner.

### IV. Approval of the Minutes

MSC: To approve the minutes of July 12, 2022.  
(Wasserman/Tom: 7-0; Sawney abstained.)

### V. Remarks from the Public

A. Victor Krasny, a tenant at 99 Lupine Avenue (AL220025), told the Board that the landlord wants to evict tenants and relocate their parking spots to Masonic Avenue, a busy and dangerous thoroughfare. He stated that the garage relocation would be terrible for families that currently have a protected garage on Lupine Avenue and that the change would unfairly burden tenants.

B. Ed Singer, the attorney for the landlord at 1130 Larkin Street #5 (AT220024), stated that he was in support of the ALJ's decision. He stated that although the tenant appeals on the basis that he did not appear at the hearing, the tenant was represented by counsel and was given an opportunity to submit additional evidence after the hearing. He also stated that he believes the tenant was given sufficient opportunity to present his arguments in the case.

C. John Bakas, the tenant at 1130 Larkin Street #5 (AT220024), stated that he is appealing the ALJ's decision because he was not able to attend the hearing due to a medical emergency. He stated that he is a senior on a fixed income and that the proposed rent increase would force him to move out of his home of 49 years. He requested that the Board remand the case for a new hearing so that he may present testimony in support of his case.

D. Brad Hirn, the non-attorney representative for the tenants at 99 Lupine Avenue (AL220025), asked the Board to deny the landlord's appeal. He stated that the proposed ADU project would relocate the tenants' enclosed garage parking spaces to open air parking spots along a busy street with no garage doors, which is not comparable. He said that the landlord's arguments on appeal related to housing policy are irrelevant, but that the tenants would welcome a policy discussion with the landlord related to housing affordability in the neighborhood.

E. Laura Campbell, the attorney for the landlord at 99 Lupine Avenue (AL220025), began her remarks by providing the Board with some background concerning the recent ADU legislation. She stated that unless the Board voted to remand the case for consideration of the landlord's revised plans, the landlord will be precluded from constructing ADUs at the property. She stated that the landlord's revised plans provide for secured "tuck under" parking spaces. She said that although the landlord believes no decrease in services will

occur as a result of the proposed ADUs, at a minimum, the Board should remand the case for the ALJ to provide more specificity as to what factors are relevant to a determination in the tenants' favor.

F. Alex Lemberg, the attorney for the tenant at 1786 Union Street (AL220027), stated that in addition to the arguments raised in the tenant's appeal response, he wanted to point out that the tenant had insufficient time to respond to the landlord's last-minute post-appeal submissions. He also stated that the ALJ found the tenant's testimony credible, which was uncontested by the landlord's witnesses, and that it was not improper for the ALJ to remark on the tenant's credibility without citing specific facts in support of their credibility determination.

G. Allison Strull, the attorney for the landlord at 1786 Union Street (AL220027), stated that the landlord's written brief fully describes the reasons for their appeal. She stated that the ALJ's monetary award is retroactive to 2009, which violates the statute of limitations and relies on the tenant's verbal testimony alone, which is in conflict with the property manager's written records. She stated that the landlord immediately fixed the tenant's heater once they were notified of the issue in 2021 and that the case should be remanded for the ALJ to recalculate the award.

H. Douwe Drayer, a tenant at 99 Lupine Avenue (AL220025), stated that he has an existing garage parking space on the Lupine Avenue side of the building that the landlord proposes to relocate to Masonic Street. He states that he is a senior with various health conditions and that the landlord's construction plans would pose a hardship for him because Masonic Street is not safe or accessible for him.

## VI. Consideration of Appeals

### A. 1786 Union Street

AL220027

The tenants' petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the total amount of \$23,077.50 for a lack of heat and inoperable electrical outlets. The landlord appeals, arguing in part that there was insufficient evidence to support a finding that the landlord had actual or constructive notice of the conditions beginning in 2009, and that the tenants' heat claim is barred by a statute of limitations or the equitable doctrine of laches.

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

### B. 1130 Larkin Street #5

AT220024

The landlord's petition for an unlimited rent increase pursuant to Rules and Regulations Section 1.21 was granted. The ALJ found that the subject unit was not the tenant's principal place of residence at the time the petition was filed. The tenant appeals, arguing that his absence from the unit was only temporary and necessitated by a family emergency; that he was ill on the day of the hearing and unable to provide testimony; that the decision is based on false statements made by the landlord; and that the decision will

cause financial hardship.

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

C. 99 Lupine Avenue

AL220025

The landlord's appeal was filed 1 day late because they submitted the appeal by email after 5:00 p.m., and did not realize it would be marked as received the following business day.

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

The tenants' objection to the landlord's ADU Declaration was granted. The ALJ found that the landlord's proposed ADU construction project, resulting in the relocation of garage parking spaces, constitutes a substantial reduction in housing services pursuant to Rent Ordinance Section 37.2(r). On appeal, the landlord argues that there is no substantial difference between the tenants' existing parking spaces and the proposed new ones, and that the landlord has amended their construction plans to include additional security features at the location of the relocated garage parking spaces.

MSC: To accept the appeal and remand the case to the ALJ for a supplemental hearing to allow consideration of the proposed amended plans and to give the tenants an opportunity to respond.  
(Wasserman/Gruber: 5-0)

#### V. Remarks from the Public (cont.)

A. Monica Mora, a tenant at 99 Lupine Avenue (AL220025), asked the Board to deny the landlord's appeal. She stated that her current garage on Lupine Avenue is safe and enclosed behind a garage door, and that the proposed garage on Masonic Street is unenclosed and unsafe. She stated that she is also worried about the length of time it will take to complete the work, and disturbances from dust and noise that will result from the construction.

B. John Bakas, the tenant at 1130 Larkin Street #5 (AT220024), stated that the Board's decision to deny his appeal is wrong and that the Board should reconsider and allow him to present his case.

#### VII. Communications

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

A. Articles from the SF Chronicle, SF Standard, SF Examiner, Mission Local, Office of Mayor London Breed, and the website of the San Francisco Apartment Association.

B. Monthly workload statistics for June 2022.

## VIII. Director's Report

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

Executive Director Varner told the Board that 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. Executive Director Varner thanked the Board for their continued support regarding the improvements to the space on the 6<sup>th</sup> & 7<sup>th</sup> floors and that staff continue to work with DPW Architecture and Bureau of Building Repair. She told that Board that the FY 22-23 budget has now been certified by the department and thanked the Board for their support.

Executive Director Varner explained that a few large property owners are continue to report into the Housing Inventory, and that staff are now working on the next phase to plan for the small property owners to report into the Inventory this fall. She explained that staff will be conducting outreach to small property owners whose first Housing Inventory reporting deadline is March 1, 2023. She answered some questions for President Gruber regarding Portal data. She explained that in regards to the Rent Board Fee, staff are slowly closing up the FY22 Fee cycle, and that once this is done, the Rent Board will send out a notice to property owners who have not paid their fee, giving them 30 days to pay the Rent Board with the late penalties. Director Varner explained that if any owner then does not pay, the Rent Board will refer the delinquent fee obligation to the City's Bureau of Delinquent Revenue, where any delinquent owners will be charged a commission on top of the outstanding fee and late penalties. She said that in the next years, this process will take place close to June 1. She thanked the department's outstanding partners at the Treasurer and Tax Collector, the Assessor and 311 for all their assistance.

Director Varner gave an update in regards to legislation, firstly telling the Board that Board of Supervisors (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 was vetoed by the Mayor on July 21, 2022. The Supervisors' attempt to overturn the Mayoral veto failed by a 7-4 vote; 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; BOS File No. [220341](#), which amended San Francisco's Ellis Act withdrawal provisions, went into effect on July 18<sup>th</sup>; and that BOS File No. [220636](#), a ballot initiative to amend the City Charter that would have extended rent control to some newly constructed units, was tabled by the Board of Supervisors on July 26. Director Varner said that [Ordinance No. 18-22](#) became effective on March 14, 2022 and requires landlords pursuing certain types of evictions to first provide the tenant a written warning letter and an opportunity to cure, the San Francisco Apartment Association and Small Property Owners of San Francisco Institute filed a lawsuit challenging the legislation and on March 23, 2022, the Court issued an Order staying the legislation until the case is resolved. She said that on July 22, 2022, the Court issued its decision, which grants the

petitioners' challenge in part, preventing the City from enforcing the legislation solely with respect to evictions based on the nonpayment of rent. However, she said, the decision lifts the temporary stay and permits the legislation to be enforced with respect to other types of evictions for which a 10-day warning notice is required.

Lastly, Director Varner introduced new clerical unit supervisor Lennie Gragasin. Director Varner said that Lennie was most recently at the SFMTA Training Division, where she supported the unit that trained new Muni operators, and prior to that she worked at the MTA in the Sustainable Streets-Crossing Guard program, for a short period of time at SFO, and for many years for the school district in Daly City. The Board welcomed Lennie.

IX. Old Business

A. 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 Sawney, to make a resolution making findings to allow a teleconferenced meeting on September 13, 2022 pursuant to California Government Code 54953(e). (Wasserman/Sawney: 8-0)

X. New Business

There was no new business.

XI. Calendar Items

September 13, 2022 – remote meeting via WebEx Events

A. Consideration of Appeals

8 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Sawney.

XII. Adjournment

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