



London N. Breed  
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*Executive Director*

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*PRESIDENT*

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DAVID WASSERMAN

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

Tuesday, January 17, 2023  
at 6:00 p.m.

Remote Meeting via video and teleconferencing  
<https://bit.ly/3X0mguR>

Public Comment Dial In Number: (415) 655-0001  
Access Code: 2495 157 5354 / Webinar Password: RENT (7368 from phones)

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 December 13, 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 January 17, 2023 to [rentboard@sfgov.org](mailto:rentboard@sfgov.org). The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3X0mguR>. The public comment call in instructions are available on the Rent Board's website at <https://sf.gov/public-body/rent-board-commission>.

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

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Commissioner Sawney read the Ramaytush Ohlone Land Acknowledgment.

III. Roll Call

Commissioners Present: Gruber; Haley; Mosbrucker; Qian;  
Sawney; Tom; Wasserman.

Commissioners Not Present: Crow; Hung; Klein.

Staff Present: Brandon; Flores; Koomas; Varner.

IV. Approval of the Minutes

MSC: To approve the minutes of December 13, 2022.  
(Wasserman/Sawney: 6-0; Mosbrucker abstained)

V. Remarks from the Public

A. Ronald Schivo, the attorney for the landlord at 215 Guerrero Street #3 (AT220063), told the Board that the tenant failed to state a proper basis for the appeal, because he only challenges the Administrative Law Judge's (ALJ) factual determinations. He said that the tenant disguised himself as one of the original leaseholders "for years," and produced false identification to avoid a rent increase. He stated that the ALJ wrote a thorough decision based on many exhibits and two days of arbitration, and that the decision should be upheld.

B. Annika Kahn, the tenant at 730 Gonzalez Drive (AT220061 and AT220062), told the Board that she desires a "more thorough hearing" for the reasons stated in her written appeal documents, which she summarized in part as follows - (a) she states that the monthly rent reduction of \$150.00 awarded by the ALJ is insufficient, since the service reductions are continuing and have worsened; (b) that she discovered holes behind her washing machine that allowed entry by rats; (c) that she can hear rats in the ceilings and walls, which causes stress; (d) that after the dishwasher was replaced and the hole was patched, they discovered that rats had chewed through a pipe and caused a water leak; and (e) that the landlord either ignores her complaints or performs "band-aid" repairs.

C. Dennis Zaragoza, the attorney for the tenant at 830 Fillmore Street #3 (AT220058), stated that the ALJ did not follow the law concerning hearsay evidence and improperly allowed the landlord to submit a post-hearing declaration from a party who had not appeared at the hearing. He stated that because he was unable to cross-examine the declarant, his client was deprived of due process and the case should be remanded.

D. Robin Buckley, the tenant at 830 Fillmore Street #3 (AT220058), told the Board that he is a native San Franciscan and helped create an organization in the 1970s that advocated for responsible dog ownership and "off-leash access." He stated that at the time he rented the unit, it was extremely important for him to have exclusive use of the yard for his pets, because he is elderly, disabled, and unable to exercise his pets at any other publicly accessible outdoor areas. He stated that none of the other building tenants wanted to use the yard when he moved in, and he was given a written pet agreement that granted him sole use of the yard. He stated that for

over twenty years his exclusive use of the yard was never a problem for any of the building tenants, until new tenants moved in and took over the yard for their own use. He states that landlord's conversion of the yard to a shared space has substantially decreased his housing services.

E. Emerson Gomez, the subtenant at 4150 25<sup>th</sup> Street (AT220065), stated that the unit he lived in had four bedrooms, and although he occupied the smallest bedroom in the unit, he paid the largest share of rent. He stated that he filed the petition after discovering rules that limit how much rent a master tenant can charge. He also stated that the master tenant should be held accountable for his actions, and that a different tenant had been allowed to disable the fire alarms and create a dangerous environment.

F. Jacqueline Patton, the attorney for the tenant at 215 Guerrero Street #3 (AT220063), stated that the appeal does raise questions of law, contrary to the landlord attorney's characterization of the appeal. Specifically, she stated that the ALJ incorrectly interpreted the term "occupy" for the purpose of the Costa-Hawkins Rental Housing Act. She also stated that the undisputed evidence showed the tenant was in possession of the unit at the start of the tenancy, and that the Commission should reverse the decision.

#### VI. Consideration of Appeals

##### A. 230 Central Avenue #7

AT220059

The tenant's petition alleging decreased housing services was dismissed due to their non-appearance at the mediation. On appeal, the tenant claims that he did not receive the Notice of Mediation due to a broken mailbox, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case to the ALJ for a new hearing.  
Should the tenant again fail to appear, absent extraordinary circumstances,  
no new hearings will be held.  
(Wasserman/Qian: 5-0)

##### B. 235 Collingwood Street #A

AL220064

The tenant's petition alleging decreased housing services was granted and the landlord was found liable in the amount of \$6,283.81 for a lack of heat in the unit since the inception of the tenancy. The landlord did not appear at the hearing. The landlord claims on appeal that he did not receive the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

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

C. 4150 - 25th Street

AT220065

The subtenant's petition alleging a disproportional share of rent was dismissed due to their non-appearance at the hearing. On appeal, the subtenant explains that they miscalendared the hearing date due to a clerical error.

MSC: To accept the appeal and remand the case to the ALJ for a new hearing.  
Should the subtenant again fail to appear, absent extraordinary circumstances, no new hearings will be held.  
(Mosbrucker/Qian: 3-2; Gruber, Wasserman dissenting)

D. 1756 Broadway Street #7

AL220057

The tenant's petition claiming an unlawful rent increase was granted and the landlords were found liable for rent overpayments in the amount of \$40,981.10. On appeal, the landlords contend that the tenant should have sought reimbursement from the former owner, and that they were not informed of the tenant's rent history at the time they bought the property.

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

E. 830 Fillmore Street #3

AT220058

The tenant's petition alleging decreased housing services was granted in part. The Administrative Law Judge (ALJ) denied the tenant's claim regarding exclusive use of the backyard, but found the landlord liable in the amount of \$530.00 for unreasonable noise. On appeal, the tenant argues that he was provided exclusive use of the backyard by the former owner, which was recited in a written pet agreement he gave the landlord respondents in 1998. The tenant contends that the landlord's post-hearing declaration regarding the pet agreement was inadmissible hearsay, and that the ALJ's reliance on that evidence deprived him of due process.

MSC: To deny the appeal.  
(Wasserman/Gruber: 4-1; Mosbrucker dissenting)

F. 556 Waller Street

AL220060

The subtenant's petition alleging a disproportional share of rent was granted and the master tenant was found liable for rent overpayments in the amount of \$2,219.50. The master tenant argues on appeal that the ALJ was biased and that the bedroom dimensions provided by the subtenant were not accurate.

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

G. 730 Gonzalez Drive

AT220061, AT220062

The tenant filed two petitions alleging various decreased housing services. In the consolidated decision, the landlord was found liable in the amount of \$1,950.00 for damage to the bathtub, walls and floors, but the tenant's other claims were denied. On appeal, the tenant states that there are many serious conditions in her unit that still need repair.

Commissioner Wasserman recused himself from consideration of this appeal because he represents the landlord in other matters.

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

H. 215 Guerrero Street #3

AT220063

The landlord's petition for a determination pursuant to the Costa-Hawkins Rental Housing Act was granted. The ALJ found that a rent increase was authorized because all of the original occupants vacated and the tenant respondent is a subtenant who moved in after the tenancy commenced. The tenant appeals the decision on the ground that he is an original occupant who moved into the unit with the landlord's permission at the same time as the rest of his family members.

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

I. 1230 Russia Avenue

AL220070

The tenant's petition alleging decreased housing services was granted in part, and the landlords were found liable in the amount of \$1,652.50 for water damaged ceilings and rubbish in the backyard. The landlords argue on appeal that no rent reduction is warranted for the condition of the backyard because the tenant in a different unit was given exclusive use of the yard.

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

J. 2647 Mission Street, #6

AT230001

The tenant's application for a deferral of capital improvement passthrough based on financial hardship was denied because the tenant failed to provide income evidence for a second occupant of the unit. On appeal, the tenant states that the second occupant has agreed to submit income evidence and attaches various supporting documents.

MSC: To accept the appeal and remand the case to the ALJ to consider deferral of the entire capital improvement passthrough of \$210.02, with a hearing to be held only if necessary.  
(Mosbrucker/Qian: 5-0)

V. Remarks from the Public (cont.)

A. Annika Kahn, the tenant at 730 Gonzalez Drive (AT220061 and AT220062), told the Board that she isn't appealing the consolidated decision, she's appealing "the entire item itself" and that she has over \$20,000.00 in receipts for her claims. She stated that the conditions in her unit have worsened since the decision issued, and that she is confused by the Board's denial of her appeal.

B. An unidentified caller who resides at 556 Waller Street (AL220060), told the Board that the subtenant would not permit entry into their bedroom in order to take precise measurements and that the ALJ was extremely biased during the hearing.

C. Irving Gomez, the landlord at 2647 Mission Street #6 (AT230001), told the Board he was shocked they had granted the tenants' appeal and were allowing the tenants to retroactively amend their petition, since he believes the ALJ had already given the tenants extra time to submit information that should have been provided at the beginning.

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, and the Sacramento Business Journal.

B. Monthly workload statistics for November 2022.

VIII. Director's Report

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

Executive Director Varner told the Board that in regards to current departmental operations, the office remains open to the public at reduced hours for the past month, in line with City guidance and with support from the public. She said that the 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, and that staff continue to work on a hybrid basis both at home and in the office. Director Varner explained 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.

Executive Director Varner explained that in regards to the Housing Inventory and Rent Board Fee, the 2023 Rent Board Fee & Housing Inventory Informational Notices have been mailed out to all property owners informing them of their requirement to report into the Housing Inventory, their anticipated March 1 Rent Board fee obligation, how to request an exemption from the Rent Board fee if they believe they should be exempt, and how to report into the Housing Inventory. She reminded the public that the Housing Inventory reporting deadline for owners of all properties is March 1, 2023, that the time to request an exemption from the 2023 Rent Board Fee has passed. She said that if an owner believes they should have received a 2023 Informational Notice and did not receive one, or is trying to figure out their obligation, they

can contact 311. She said that 2023 Rent Board Fee Annual Notice invoices were going out that week, and that the online Fee payment system opened on January 9. Director Varner explained that if owners previously accessed their properties in the Portal either by paying the 2022 Fee or reporting into the Inventory or both, they can simply log back into their existing accounts to pay the Fee or re-report in advance of the March 1 deadline. She reminded the public that timely Rent Board Fee payments are due March 1, and that if owners pay late, they will incur a 5% penalty, and then a 10% penalty in April, and a 15% penalty in May. And finally, Director Varner said, the department expects that delinquent 21-22 Rent Board Fee obligations would to be sent to collections later in the month.

Executive Director Varner provided an update in regards to legislation, and told the Commissioners that Board of Supervisors (BOS) File No. 221021, which would make changes to the Planning Code's HOME-SF Program (Home Ownership Means Equity – San Francisco) is still before the Land Use and Transportation Committee. She said that the HOME-SF Program allows density bonuses and zoning code modifications to new development projects that agree to provide certain amounts of affordable housing, and that this legislation would expand the HOME-SF program to projects that agree to subject the residential units in the development to rent control under the Rent Ordinance instead of providing additional on-site affordable units. Director Varner reported that California Assembly Bill 12 was introduced by assemblymember Matt Haney of San Francisco on 12/5/22 and is awaiting committee action. She said that this legislation would amend California Civil Code Section 1950.5 to cap security deposits to an amount equal to no more than one month's rent, regardless of whether the property is furnished or unfurnished.

Executive Director Varner inquired with the Board about Digital Distribution of Meeting Material, and Commissioners receiving their meeting materials via OneDrive. In regards to the department's ongoing racial equity work, Director Varner explained one commissioner was scheduled to attend a Department of Human Resources workshop, and that 4 commissioners will be scheduled to attend workshops.

## IX. Old Business

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

Executive Director Varner announced that the Board had been provided a memorandum from the City Attorney regarding public meeting rules under the state's Brown Act. She explained that due to the expiration of COVID-19 emergency measures, public meeting rules were largely returning to what they were prior to the pandemic, with a few exceptions, and that beginning March 1, 2023, the Commission was required to conduct meetings in-person. While members of the public will still have the ability to provide public comment remotely under certain circumstances, such accommodations are generally not required and may be difficult to support. Executive Director Varner then opened up this subject for discussion by the Board. The Board discussed possible meeting locations at 25 Van Ness Avenue and City Hall, the technological capabilities of the potential meeting places, accessibility, and public health concerns. The Board also discussed Board Meeting material packets, and the use of digital files as a replacement for paper documents.

Executive Director Varner stated that the February Board Meeting would still be held remotely via Webex, and that as in previous Board Meetings, the Commissioners must make findings pursuant to California Government Code 54953(e) once every 30 days in order to conduct a future remote Board Meeting. After 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 Board Meeting on February 14, 2023 pursuant to California Government Code 54953(e).  
(Wasserman/Sawney: 7-0)

X. New Business

A. Fiscal Year 2023-2024 Departmental Budget

Executive Director Varner gave the first of two presentations to the Board regarding the department's Fiscal Year 2023-2024 budget. She told the Board that the department has gone through one full cycle of budgeting new positions related to the Housing Inventory and Rent Board Fee collection and growing the department to better serve the people of the City. She explained that the major items in the FY 23-24 budget are wages and fringe benefits, and the move and tenant improvements and that the department is also considering some technology projects for FY 24.

Director Varner told the Board that the department has been hiring in waves to fill vacant positions, most related to the increased work around the Housing Inventory and Fee, and that positions that were added into the budget at half or  $\frac{3}{4}$  time in fiscal year 2022 are now fully funded. She said that in the past year, the department has hired or transitioned staff into 19 different permanent positions and one project-based position. With that, she said the department has put itself in a much better position to carry out legislative mandates, modernize and grow, and importantly, to better serve the public, looking with an eye to the future. She said the department has 13 vacancies, with 7 recruitments across 6 different classifications in progress, and with an expectation that those 7 positions will get filled and an additional 4 recruitments will begin by the end of FY23. Director Varner explained that with the vacancies, the department ends the year with salary and fringe savings of \$2.7M.

Director Varner explained that FY22 brought in about \$10.2M in revenue, plus \$800,000 for the first noticing cycle of delinquent Rent Board Fees, with the department retaining about \$1.29M in uncollected fees that should be recovered via collections. In FY23, she explained, the department anticipates that with an annual fee of \$59, the department could generate at least an initial \$12.4M due to better data collection and acquiring more data over the course of the year around new construction.

In regards to the ongoing move and tenant improvements project, Director Varner said, the department made the decision to split up the originally estimated \$4M work between the 6<sup>th</sup> and 7<sup>th</sup> floors which would increase project savings, allocating \$2M for work on the 7<sup>th</sup> floor and \$250,000 for the 6<sup>th</sup> floor. She told the Board that the 7<sup>th</sup> floor tenant improvements include creating a true public space, where the public and the staff are separated, and the public can get their needs met in a more streamlined way. Director Varner said that the project has encountered some delays, so the department may again have to budget rent costs for FY24 in both existing Suites 320 and 340 and also new Suites 660 and 700 and carry forward project



costs into FY24. She said that the project is awaiting review in front of the new Public Works commission, with a planned move in date of early January 2024.

Director Varner told the Board that in regards to technology, the department is focusing on modernization. She said that in the present fiscal year the department has purchased a new device management solution, are engaging in equipment purchasing, and has purchased updated software. She said that the department is in the information gathering stages to determine workflow and potentials for online filing. Director Varner told the Board that at the next meeting she would have firmer numbers for the next phase of the technology modernization project.

Finally, she said, the rest is to be expected and are ordinary budgeted costs – materials and supplies, professional services, and interdepartmental work orders will remain relatively the same, with DHR work order decreasing since the department anticipates being engaged in less hiring and recruitment across the department in the second half of FY24. Ultimately, she said, early projections show the department with a potential \$12.4M in revenue in FY23, with about \$2.7M in salary savings to bring into FY24. Director Varner invited questions and said that she would provide the Board with a memo and accompanying numbers in advance of the February meeting.

## XII. Calendar Items

February 14, 2023 – remote meeting via WebEx

- A. Consideration of Appeals – 2 appeal considerations
- B. Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Tom
- C. New Business: Proposed Rules and Regulations regarding the Tenant Right To Organize legislation

## XIII. Adjournment

President Gruber adjourned the meeting at 8:28 p.m.