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

Tuesday, May 16, 2023
at 6:00 p.m.
25 Van Ness Avenue, Room 610
San Francisco, CA 94102

The meeting will also be streamed online via Webex at
<https://bit.ly/42egMPT>

Public comment may be given by phone.

Public Comment Dial In Number: (415) 655-0001
Webinar Number: 2607 276 9758 / Webinar Password: RENT (7368 from phones)

The Commission strongly encourages interested parties to submit their comments in writing, by 12:00 p.m. on May 15, 2023 to rentboard@sfgov.org. 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.

I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Hung read the Ramaytush Ohlone Land Acknowledgment.

III. Roll Call

Commissioners Present: Crow; Gruber; Hung; Sawney; Tom; Wasserman.

Commissioners Not Present: Haley; Klein; Mosbrucker; Qian.

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

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IV. Remarks from the Public

A. Thomas Kroner, the attorney for the tenant at 3024 San Bruno Avenue #B (AT230026), told the Board that the landlord's response to the tenant's appeal did not respond to the actual merits of the petition, and that the reason they submitted new evidence on appeal is because the evidence was not available at the time of the hearing.

B. Ana Herrera, a legislative aide to District 9 Supervisor Hillary Ronen spoke on behalf of Supervisor Ronen in support of the appeal filed by the tenant at 3024 San Bruno Avenue #B (AT230026). She stated that the property is within District 9, and that the tenant's appeal demonstrates the need for a new hearing. She stated that public policy should also be considered, as the original occupant vacated the unit because of a restraining order obtained by the tenant petitioner, and that a survivor of domestic violence should not have to choose between continuing to reside with their aggressor or being displaced by an unlimited rent increase.

V. Approval of the Minutes

MSC: To approve the minutes of April 11, 2023.
(Gruber/Wasserman: 6-0)

VI. Consideration of Appeals

A. 455 Eddy Street #203

AT230024

The tenants' petition claiming an unlawful rent increase was dismissed due to their non-appearance at the hearing. On appeal, the tenants state they were unable to appear due to a last-minute work conflict.

Commissioner Wasserman recused himself from consideration of the appeal because he represents the owner Mosser in unrelated matters.

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

B. 844 Shotwell Street #A

AT230022

The tenant's application for deferral of a capital improvement passthrough due to financial hardship was denied. The ALJ found that the tenant did not qualify for relief from payment of the passthrough after April 1, 2022, because the tenant's total rent was less than 33% of the tenant's monthly gross household income. On appeal, the tenant contends that her income is inconsistent and less than the amount stated in the decision.

Commissioner Wasserman recused himself from consideration of the appeal because he represents the owner's property management company in unrelated matters.

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

C. 795 Geary Street #404

AT230023

The tenant's petition alleging decreased housing services was granted and the landlord was found liable for rent reductions in the amount of \$370.00 for damaged carpeting. The tenant's appeal was filed approximately 2½ years late because she claims she's been litigating other matters with the property manager. The tenant claims that the decision contains factual errors.

Commissioner Wasserman recused himself from consideration of the appeal because he represents the owner and owner's property management company in unrelated matters.

MSC: To find no good cause for the late filing of the appeal.
(Tom/Gruber: 4-1; Sawney dissenting)

D. 2365 O'Farrell Street #9

AT230025

The tenants' petition alleging decreased housing services was denied. The ALJ found that the tenants failed to meet their burden of proving that the lack of certain features in their replacement parking space or the landlord's refusal to provide a digital access code to one building entryway constituted a substantial decrease in housing services. The tenants appeal, arguing in part that they had a reasonable expectation that the landlord would provide use of a water spigot and electrical outlet in their replacement parking space, because their original parking space contained these features, and these features were present in the replacement parking spot at the time they agreed to relocate.

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

E. 3024 San Bruno Avenue #B

AT230026

The tenant's petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act was denied on remand pursuant to the landlord's appeal. The ALJ found that a rent increase was authorized because the original occupant vacated, and the tenant petitioner is a subtenant who moved in after the tenancy commenced. The tenant appeals the decision and asserts that the ALJ misjudged the evidence and that she is a co-tenant and not a subtenant because the landlord accepted her rent payments.

MSF: To remand the case to find that the Costa-Hawkins rent increase is not allowed.
(Crow/Sawney: 2-3; Gruber, Wasserman, Hung dissenting)

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

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F. 1401 San Bruno Avenue

AL230027

The landlord filed a petition seeking certification of capital improvement costs for exterior painting, new stairway landings, and sidewalk and curb repair work. The ALJ certified most of the exterior painting and stairway landing costs but disallowed some of the landlord's claimed uncompensated labor hours for work related to a prior painting project and for time spent travelling to procure materials. The decision found that the sidewalk and curb repair work did not meet the definition of a capital improvement and held that the landlord was required to give the tenants a 90-day notice for rent increases exceeding 10%. On appeal, the landlord contends that all of his claimed uncompensated labor and the work to repair the sidewalk and curb are capital improvement costs and should have been certified. The landlord further argues that general obligation and water bond passthroughs should not be considered for the purpose of determining whether a rent increase notice exceeds 10%.

MSC: To deny the appeal.

(Crow/Sawney: 3-2; Gruber, Wasserman dissenting)

IV. Remarks from the Public (cont.)

A. Cyra Koupal, the tenant at 844 Shotwell Street #A (AT230022), stated that she is a long-term resident of San Francisco and works as a hospital interpreter. She explained that she's experienced serious financial hardship since becoming ill in 2020 and has no way to afford the large increase imposed by the landlord.

B. Thomas Kroner, the attorney for the tenant at 3024 San Bruno Avenue #B (AT230026), stated in part that contrary to a comment made by one of the Commissioners, the original occupant did in fact give written notice that he was vacating the unit; that the ALJ's decision gave insufficient weight to the evidence that one of the landlords served a banked rent increase notice referencing the old monthly rent after the Costa-Hawkins rent increase notice was served; and that the evidence established a clear waiver of the landlords' right to enforce the Costa-Hawkins rent increase.

C. Monthanus Ratanapakdee, a tenant at 2365 O'Farrell Street #9 (AT230025), told the Board that the landlord turned her old garage space into an ADU, and that the new garage space provided by the landlord lacks access to water and electricity, which were important amenities she had in her former space.

D. Jesus Gomez, the landlord at 1401 San Bruno Avenue (AL230027), stated that he only owns one residential property and that he doesn't have a lot of experience with San Francisco's rental laws, which he described as convoluted. He stated that in the past he's performed sidewalk repairs himself, but that the sidewalk work completed in this case was a much larger project that required an expensive bond. He stated that he minimized the cost of the work by shopping around for contractors, and that it was unfair for the Board to deny his petition based on an arbitrary "50% rule".

E. Angel Briceño, a tenant at 455 Eddy Street #203 (AT230024), told the Board that he's lived in many SROs in the City, and that his current landlord is a notoriously bad landlord who doesn't

maintain the property or respond to tenant complaints. He stated that the landlord has ignored problems in the building and been dismissive of his complaints throughout his tenancy.

F. Maria Villegas, a representative for the owner of 455 Eddy Street #203 (AT230024), told the Board that she just wanted to thank the Commissioners for their work and that she learned a lot by viewing the meeting.

VII. Communications

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

- A. An article from the Sacramento Bee.
- B. Monthly workload statistics for March 2023.
- C. Decision in *SFAA v. CCSF* (Superior Court Case No. 517087, Appeal No. A161866).

VIII. Director's Report

Executive Director Varner told the Board that Rent Board operations continue as normal, and the department continues with hiring and recruitment and its move project. She said that the department hired a Community Analyst to coordinate the department's Racial Equity work and to work on important communications of the website and forms, and announced that a long-time counselor promoted to an Administrative Analyst position within the Public Information Unit and a new counselor was hired. Director Varner said that in regards to outreach, staff will participate in the SF Apartment Association's Landlord Expo on Thursday, May 16, and that following, the department will engage Cultural Districts community partners, nonprofit partners, and other community organizations about potential Rent Board outreach opportunities, as well as core Rent Board information about rights and responsibilities, including the Housing Inventory. Director Varner told the Board that timely Rent Board Fee payments were due March 1, and payment now incurs a 15% penalty. She said that owners can pay via the Rent Board Portal online at portal.sfrb.org, or by mailing a check into the Rent Board's PO Box or walking a check or cash payment into the Treasurer and Tax Collector's Office during business hours, and if they have questions, owners can contact 311. Director Varner said that owners who do not pay before June 1 will be delinquent and will have to pay their fee after receiving a Notice of Delinquency, and if they still don't pay, their unpaid obligation will be referred to the City's Bureau of Delinquent Revenue. With regard to legislation, Director Varner told the Commissioners that Board of Supervisors File No. 230260, the Ordinance amending the Administrative Code to extend by 60 days the restrictions on evicting or imposing late fees on residential tenants who could not pay rent that came due during the COVID-19 emergency was signed by the Mayor on April 14 and went into effect on May 14. Director Varner then introduced Max Garcia, a new Rent Board Specialist (counselor), in the Public Information Unit. She said that Max joined the Department after working for 9 years in property management, and is a fluent Spanish speaker. The Commissioners welcomed Max.

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IX. Old Business

A. Future Rent Board Commission Meetings/Revised Appeal Procedures

At the April 11, 2023 Board Meeting, staff provided information to the Commissioners regarding making formal changes to the Rules and Regulations to enact clear deadlines around appeal document submission. The Commissioners opted to not create draft Regulations but rather requested that staff amend the wording on the Appeal to the Board form and provide a draft for review at the May 16, 2023 meeting. Staff provided the updated draft version of the Appeal to the Board form prior to the Board Meeting. The Commissioners, led by President Gruber and Commissioner Wasserman, agreed that the updated language provided better clarity to the public regarding suggested appeal document filing times and instructed the Board to put the updated Appeal to the Board form in use.

B. Proposed Amendments to Rules and Regulations Section 10.10 Regarding Tenant Right To Organize Legislation

Senior Administrative Law Judge Koomas informed the Board that pursuant to their request during the last Board Meeting, Rent Board staff asked the City Attorney's office to prepare a written memorandum in response to Commissioner Klein's proposed amendments to R&R Section 10.10. He further stated that the City Attorney's office had elected to contact Commissioner Klein directly to discuss the proposed amendments, and that staff were awaiting more information. Commissioner Wasserman asked the Commissioners to continue this discussion until the next Board Meeting, since Commissioner Klein was not in attendance. This item was then continued to the June Board Meeting for discussion as Old Business.

X. New Business

There was no new business.

XII. Calendar Items

June 13, 2023

A. Consideration of Appeals

7 appeal considerations

1. Proposed Amendments to Rules and Regulations Section 10.10 Regarding Tenant Right To Organize Legislation

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Klein.

XIII. Adjournment

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